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AN INTRODUCTION  
TO  
ENGLISH ECONOMIC  
HISTORY AND THEORY

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*PART II.*  
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# CONTENTS

## BOOK II.

FROM THE FOURTEENTH TO THE SIXTEENTH CENTURY.

### CHAPTER I.

#### The Supremacy of the Towns.

	PAGE
AUTHORITIES.....	3
SECTION	
24. THE MEDIÆVAL MUNICIPALITY .....	5
25. THE CONTROL OF TRADE.....	12
26. THE CONTROL OF INDUSTRY .....	23
27. THE SURVEY OF VICTUALS .....	30
28. TOWN UNDERTAKINGS AND PROPERTY .....	32
29. DECAY OF THE TOWN SYSTEM .....	42
30. NATIONAL PROSPERITY .....	50
NOTES.....	55

### CHAPTER II.

#### The Crafts.

AUTHORITIES .....	66
SECTION	
31. THE INDUSTRIAL MOVEMENT.....	68
32. EXTENSION OF THE GILD SYSTEM .....	71
33. APPRENTICESHIP.....	84
34. THE JOURNEYMEN .....	98

SECTION	PAGE
35. THE JOURNEYMEN'S SOCIETIES .....	106
36. THE LIVERY AND THE COURT OF ASSISTANTS .....	124
37. THE RELIGIOUS FRATERNITIES .....	134
38. THE DISENDOWMENT OF RELIGION.....	139
39. CONTINUITY OF CRAFT LIFE .....	155
40. DIMINUTION OF CRAFT AUTONOMY .....	159
41. PLACE OF THE GILD IN INDUSTRIAL HISTORY .....	165
NOTES .....	170

## CHAPTER III.

## The Woollen Industry.

AUTHORITIES .....	190
SECTION	
42. EARLY HISTORY. THE FIRST IMMIGRATION OF FOREIGN ARTISANS .....	191
43. THE WORSTED MANUFACTURE.....	205
44. GROWTH OF A TRADING CLASS. THE DRAPERS.....	209
45. TRANSITION TO THE DOMESTIC SYSTEM. THE CLOTHIERS ..	218
46. THE SECOND IMMIGRATION .....	237
NOTES .....	243

## CHAPTER IV.

## The Agrarian Revolution.

AUTHORITIES.....	259
SECTION	
47. THE AGRICULTURAL DEVELOPMENT .....	261
48. THE PEASANTS' REVOLT.....	264
49. THE ENCLOSURES .....	267
50. REMOVAL OF CUSTOMARY TENANTS .....	272
51. FINES AND LEASES.....	283
52. AREA OF THE ENCLOSURES.....	285
NOTES .....	289

## Map.

THE ENCLOSURES OF THE TUDOR PERIOD .....between 304 and 305

# CONTENTS.

vii

## CHAPTER V.

### The Relief of the Poor.

	PAGE
AUTHORITIES.....	305
SECTION	
53. THE RELIEF OF THE POOR BY THE PARISH CLERGY.....	306
54. BY THE MONASTERIES.....	311
55. BY THE HOSPITALS.....	317
56. BY THE CRAFTS AND FRATERNITIES.....	324
57. BY PRIVATE CHARITY.....	328
58. LEGISLATION CONCERNING VAGRANCY.....	332
59. THE MOVEMENT TOWARDS REFORM IN EUROPE.....	338
60. THE METHOD OF YPRES.....	347
61. VAGRANCY AND DISTRESS IN ENGLAND.....	351
62. GROWTH OF THE MODERN POOR LAW.....	356
NOTES.....	367

## CHAPTER VI.

### The Canonist Doctrine.

AUTHORITIES.....	377
SECTION	
63. CANONIST ECONOMICS.....	379
64. ITS MAIN IDEAS.....	386
65. THE DOCTRINE OF INTEREST.....	395
66. THE DOCTRINE OF RENT-CHARGES.....	405
67. THE DOCTRINE OF PARTNERSHIP.....	411
68. LOANS ON BOTTOMRY.....	421
69. INVESTMENT IN THE FIFTEENTH CENTURY.....	424
70. EXCURSUS ON CAPITAL.....	427
71. RELATION OF CANONIST THEORY TO REAL LIFE.....	434
72. THE TRIPLE CONTRACT.....	439
73. MONTES PIETATIS.....	447
74. LATER CATHOLIC DOCTRINE.....	451
75. PROTESTANT AND REFORMED OPINION.....	456
76. OPINION IN ENGLAND.....	460
NOTES.....	471
INDEX.....	489



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## P R E F A C E

THE delay in the preparation of the second instalment of this work has been due, partly to the pressure of new and engrossing duties, partly to the difficulties of the task. The book was originally intended to be little more than a compilation; although in the course of writing even the first part some little fresh investigation seemed advisable. But on attempting to put together material for a second part, it soon became apparent that the necessary foundations had not been laid, in the shape of satisfactory modern treatises on the several portions of the subject. I have therefore been obliged in large measure to do my own work of excavation; and not only to generalize from given facts, but also to collect the facts for myself.

The first five chapters present what are in the main independent conclusions based upon the original authorities. I regret that I have not been able in every instance to draw my citations directly from the sources themselves. The conditions under which the book has been written,—a great part of it in a remote “summer resort” in the province of Quebec, several hundred

miles away from any books save those laboriously carried thither,—must excuse the frequent reference to merely secondary collections. I cannot refrain from expressing my deep obligations to Mr. James Bain, the chief librarian, and to the trustees of the Toronto Public Library without whose liberal aid it would have been impossible to set about the work.

The sixth chapter is based upon a study and comparison of the conclusions of a number of modern German writers on the history of canon law and of commercial law. This literature is so entirely unknown to English scholars that a presentation of its results is probably the best introduction to the examination of the original material.

The book was more than half finished when my removal to Harvard put it out of my power for an indefinite period to devote much further attention to it. I have thought it best, therefore, to restrict the scope of the chapter on agriculture to the presentation of work already done; and to defer to a later period the more complete treatment of the fifteenth century,—perhaps the most obscure in English history after the Norman Conquest. For the same reason I have postponed my intended chapter on foreign trade. This is the less to be regretted, since for its external history the reader of German already has the useful treatise of Schanz, which Mr. Williamson has compressed for the benefit of English readers in his Stanhope Essay. On the



other side of the subject, however,—the internal history of the various merchant groups and their organization in the several English towns during the fifteenth and sixteenth centuries,—there exists a mass of evidence which has as yet hardly been touched.

There has of late been a marked increase in the attention paid to Economic History. Almost simultaneously the two universities of the older and the younger Cambridge have done something to stimulate its study; the former by giving it a larger place in its examination system, the latter by creating a chair devoted to its teaching. But no one who realizes how little English-speaking scholars have done in this direction, or how intimate is the relation between Economic History and many of those theories of social change which are now influencing men's minds, can regard the attempts hitherto made at its investigation as more than poor beginnings. Of the daily life of the great body of the people during whole centuries we know well-nigh nothing; and yet the material is superabundant. We might well cry a truce to controversy as to economic method, if only a band of fit scholars could be attracted into a field which cries out for labourers.

To my wife, and to my former colleague, Professor Alexander, of Toronto, I am indebted for much help in the correction of the proofs.



BOOK II.

FROM THE FOURTEENTH TO THE SIXTEENTH  
CENTURY.



## CHAPTER I.

### THE SUPREMACY OF THE TOWNS.

[AUTHORITIES.—The books of greatest value for the study of town life are those composed of, or containing excerpts from, or translations of town records. Of these the following will be found most useful: *Memorials of London* (1868), composed of translations by H. T. Riley from the *Letter Books* of the city for the period 1276-1419; the *Liber Albus* (compiled 1419), and the *Liber Custumarum* of London, forming volumes I. (1859) and II. (1860) of the *Munimenta Gildhallæ Londoniensis*, ed. Riley, in the Rolls' Series, and the former especially easy to consult in the translation by Riley published in 1861; the *Liber Custumarum* of Northampton, in *Northamptonshire Notes and Queries* (1891); Drake's *Eloracum* (1736, and several later editions); Cooper's *Annals of Cambridge* (1842); Wodderspoon's *Memorials of Ipswich* (1850); for Bristol, *Ricart's Kalendar* (temp. Ed. IV.), ed. Lucy Toulmin Smith, Camden Soc. (1872); Davies' *Southampton* (1883); the *Records of Nottingham*, ed. with translations by W. H. Stevenson (1882-1889), a model publication, from which an intimate knowledge of the life of a borough of the second rank may be derived; the *Records of Oxford* (1509-1583), ed. Turner (1880); the *Old Usages of Winchester*, and the *Ordinances of Worcester*, in Toulmin Smith, *English Gilds*, E.E.T.S. (1870); Pieton's *Liverpool Municipal Records* (1883); the *Court Leet Records of the Manor of Manchester* from 1552 onward, of which there are two editions, a modernized abstract, ed. Harland, for Chetham Soc. (1864), and a textual reprint, ed. Earwaker (1884); Ferguson and Nanson, *Records of the City of Carlisle*, Publ. Cumb. and Westm. Antiq. Soc. Extra Series IV. (1887); and Goulding, *Louth Records* (1891). It may be added that the above-mentioned records of Nottingham, Oxford, and Manchester (ed. Earwaker) have been published at the expense of the respective corporations, an example which should certainly be followed by all other historic towns. Something may be gathered from the *Reports of the Historical MSS.*

*Commission*, especially from vol. v. (1876), containing abstracts of Cinque Port records. As useful special studies of town history may be mentioned—for a great city, Hudson's *Development of the Municipal Organization in Norwich*, in *Archæolog. Journal*, xli. (1889), and for a small town under a lord, Fuller's *Cirencester: the Manor and the Town*, in *Trans. Bristol and Glouc. Archæolog. Soc.*, vol. ix. (1884-85). On the relation between the municipal authorities and the mysteries, much information will be found in Herbert's *Livery Companies* (1834), and in Clode's *History of the Merchant Taylors* (1888). Stow's *Survey of London* (1598, and many later editions, especially one with large additions by Strype, 1720) is indispensable. A convenient cheap edition is that ed. Morley (1890). A convenient introduction to local history and topography will be found in the series of *Historic Towns*, especially Freeman's *Exeter* (1887), Hunt's *Bristol* (1887), and Cutts' *Colchester* (1888). For comparison with English conditions, it is profitable to consult Maitland, *Hist. of Edinburgh* (1753), Maxwell, *Old Dundee* (1891), and the sketch of mediæval burgh life in J. Mackintosh, *History of Civilization in Scotland* (2nd ed. 1892), i. ch. x., which is based on the publications of the Scottish Burgh Records Society. The first volume issued by that society (1868), containing the *Ancient Laws and Customs of the Burghs of Scotland* (1124-1424), with a preface by Cosmo Innes, is a handy and scholarly collection of documents. The *Calendar of Ancient Records of Dublin*, ed. Gilbert for the corporation (1889-1891), should also be glanced at.

Of secondary, but still of great importance, and one increasing towards the end of the period, are the *Rotuli Parliamentorum* (1767 onward), and the *Statutes of the Realm* (1810-1823). The legislation on any particular subject can be conveniently studied in any of the several editions of *Rastall's Statutes*, where the sections relative to the various topics are brought together under heads. For the present work the edition of 1615 has been used.

The *Subsidy Roll* of 1377, on which the usual estimate is based of the population of England as a whole, as well as of the several counties and towns, was printed by Topham in *Archæologia*, vol. vii. (1785); and there are some *Remarks*, founded on it, *upon the Population of English Cities*, by Amyot, in *Archæologia*, xx. (1824). The list of contributors in Oxford to the Poll Tax of 1380 is printed in *Oxford City Documents*, ed. Rogers, for the Oxf. Hist. Soc. (1891). The whole subject of the population of mediæval towns, with an admirable criticism of various kinds of evidence, is well treated in Jastrow's *Volkszähl deutscher Städte* (1886). The work of Karl Bücher, *Die Bevölkerung von Frankfurt a. M. im 14 u.*

15 *Jh.* (1886), is a very important contribution to social statistics, and has become the occasion of a considerable literature of comment and criticism, of which the articles of Lamprecht in Braun's *Archiv für soziale Gesetzgebung u. Statistik*, i. (1888), and Hoeniger in Schmoller's *Jahrbuch für Gesetzgebung*, etc., xv. (1891), are especially worthy of attention.

A mass of information on the constitutional history of the English towns will be found in Gross, *Gild Merchant* (1890),—though the main importance of that work is for an earlier period,—and also in the three volumes of Merewether and Stephen's *History of Boroughs*, 1835. From the older treatises on municipal history much may be gleaned, especially from Brady, *Historical Treatise on Cities and Boroughs* (1690 and later editions), and Madox, *Firma Burgi* (1726), though they only deal with special points, and those primarily from the constitutional or legal point of view. The Whig condemnation of Brady, as expressed, for instance, in Hallam's judgment of him as perversely sophistical, is hardly merited. Madox's work is, however, one of incomparably greater erudition, and witnesses to much patient research, though it is prefaced with the amusing disclaimer, "The Reader must not expect to find any curious or refined learning in this Book; in regard the subject matter of it is Low." A useful collection of material for the history of markets will be found in the *First Report of the Royal Commission on Market Rights and Tolls*, vol. i. (1889). For further bibliographical indications, the reader may consult the very handy *Classified List of Books relating to British Municipal History*, prepared by Dr. Gross, and issued by the Library of Harvard University (1891); or Gomme, *The Literature of Local Institutions* (1886).

Gustav Schmoller has sketched in masterly fashion the general characteristics of mediæval town life, and has assigned to it its place in economic evolution in the introductory chapters of his *Studien über die wirthschaftliche Politik Friedrich des Grossen*, *Jahrbuch* viii. (1884); in spite of the divergences between English and German conditions, that is still by far the best introduction to the subject. The student should also consult Hüllmann, *Städtewesen des Mittelalters* (1829), especially vol. iv. This is still the most complete attempt to cover the whole ground of mediæval civic life, and it illustrates the general similarity of conditions all over Western Europe.

§ 24. ATTENTION has already been called in an earlier section [§ 13] to the *intermunicipal* character of the trade of the later Middle Ages. It was carried on by a number of local groups, —the traders of the several towns,—who were protected in

their transactions by the power or influence of the towns to which they belonged, and who enjoyed such rights in other towns, whether in their own or a foreign country, as their magistrates had been able to procure for them. The character of the trade corresponded to the economic isolation of the towns, which were as yet the only centres of trade; and this isolation, this separateness of interests and activity, became in some respects even more marked in the fifteenth century than it had been before. And for two reasons.

Manufactures were now springing up in every borough, side by side with the trade to which its importance had originally been due,<sup>1</sup> and these were from the first marked by the same characteristic of local isolation: indeed, the industrial groups were often even more narrowly local in their interests than the traders, since trade, however limited, necessarily brought with it a certain widening of the mental horizon. In the earlier period, again, there had often been some incompleteness in municipal organization, as well as a want of unity and a divergence of sympathies among the various elements of the town population. The privileges which the towns had acquired from their lords were in many instances for a long time incomplete; while, to add to the confusion, there was sometimes a collision of interests between the old trading and the new industrial elements [§ 8]. But in the fifteenth century these defects had disappeared. Every considerable town had acquired adequate powers of self-government; and, at the same time, a uniform organization of every branch of trade and industry in subordination to the municipal authorities had come into existence, and tended to create a very substantial degree of unity and common interest among the great body of the inhabitants. What exactly this involved will be explained later; it is mentioned here in order to show how it was that



the towns were now able to carry out, more vigorously and emphatically, and over a wider range of affairs, that policy of town interest which they had long pursued.

The more or less complete independence of the towns in matters commercial and industrial, the mutual alliance of the members of each civic body for the pursuit of the common advantage of the town, are distinguishing features of this period of economic development in every part of Central and Western Europe.<sup>3</sup> Wide as were the differences between a civic republic of Italy or an imperial city of Germany with its subject territory, and a little English market town, there was an underlying similarity of ideas and purpose. Each was a body of burghers who identified the right to carry on an independent trading or industrial occupation with the right of burgess-ship; who imposed restrictions on the acquisition of citizenship, with the object of protecting the interests of those already enjoying it; who acted together by market regulation and inter-municipal negotiation to secure every advantage they could over rival boroughs; who deemed it meet that every occupation should have its own organization and its own representation in the governing authority; and who allowed and expected their magistrates to carry out a searching system of industrial supervision. Municipal magistracy was not yet an affair of routine, bound hand and foot by the laws of the state. It was the true head and centre of the activity of the burgesses, and upon its exercise depended to a large degree their material well-being. As the old town-clerk said of the "grete hedde Officer, the Maire of Bristowe," upon the civic authorities rested "the grete substaunce of poletyk provision, wise and discrete guydinge and surveyeng of all officers and others dependinge, concernynge the comune wele of the hole body of this worshipfull Toune and precincte of

the same." With a boldness in the application of biblical phrases found only in the Middle Ages, the town-clerk adds, "Quoniam in ipso, et per ipsum, et ad ipsum omnia, etc. Wherefore we al ar bounde hertilly to praie God for to preserve him, helpe, assist, and counsaile hym that so diligently with grete instaunt coste and laboure shall apply hym to extende the honnoure, welth, and prosperitee of this noble Towne, and of all the inhabitauntis of the same."<sup>3</sup>

In England, as elsewhere, practically the whole of the commereial and industrial life of the later centuries of the Middle Ages was concentrated in and confined to the towns; was controlled, assisted, and limited by munieipal regulation. But while in the broad features of its evolution England resembled the other countries of Western Europe, it had its own speeial character. Schmoller, the penetrating and stimulating historian of German soeial development, has distinguished four stages in economie evolution, according as trade and industry are organized on the basis of (1) the village, (2) the town, (3) the territory, (4) the state.<sup>4</sup> Through one of these stages—that of the territory—English industrial life had not to pass; unless, indeed, we compare the separate kingdoms and prinieipalities, England, Wales, Seotland, and Ireland, with the territories or provinces out of which the several Continental states have been ereated. A much more important peculiarity of English history is that there has never been a time since the Norman conquest when the towns were left altogether to themselves, and suffered to work out their own career, uncontrolled by a superior power.<sup>5</sup> Nor was this control simply that exercised by a strong monarch, supreme in jurisdiction and taxation. From the time of Edward I. there was a national Parliament; and under the first and third Edwards national legislation took a firm grasp of business life, and issued statutes which

were intended to override local privileges, and apply to the whole kingdom.<sup>6</sup>

From the beginning of the fourteenth century, therefore, England may be said in a certain sense to have had a "national economy," and not merely a "town economy." But the difference between England and other countries in this respect was probably more apparent than real. For the parliamentary movement of the fourteenth century was premature: the increase in the quantity of legislation was certainly not accompanied by an equal increase in the control of local by central authorities;<sup>7</sup> while the weak rule of the Lancastrians and the dynastic feuds of the fifteenth century left the towns free to pursue their own interests. Economic development had not yet reached the point at which there was any urgent need for an organization wider than that of the town; and the work of creating out of isolated groups a national trade and a national industry, if, indeed, it had been begun in the thirteenth century, needed to be taken up afresh in the sixteenth. The stream of national legislation on economic matters never, it is true, altogether dried up; but this legislation was, to a large extent, but the confirmation of powers already exercised by the town authorities, or the grant of privileges for which they had petitioned. That a central Parliament should grant similar rights to a number of different towns could do little to bring about national unity, if the exercise of those rights stimulated the sense of town completeness, and could be readily resorted to against rival communities.<sup>8</sup>

It has just been remarked that until the end of the fifteenth century the times were hardly ripe for any larger and wider economic formation than that of the town community. As we shall have abundant reason to notice later,

it was upon the growth of mereantile enterprise and mercantile wealth that the progress of the arts of production depended; and merchants still had to look to their town for the protection and support which the State was not yet able to give. Moreover, in the transactions of exchange, and the processes of manufacture, it was still necessary to stimulate the growth of a business morality—a work which could only be performed by the steady pressure of organized local opinion.

Yet the task of the mediæval municipality was no merely repressive one. Within the limits of city regulation,—limits which, like the city walls, were at once a barrier and a defence,—arose and grew up the spirit of individual initiative and enterprise; the “individualism,” to use a modern term, which after a time was to burst the shell in which its life had begun. In the period with which we are dealing, the only differences in rank in the towns, unlike the country, were dependent on differences of wealth,<sup>9</sup> a condition of things which itself furnished the greatest possible incentive to individual endeavour. With these valuable services to social progress was indeed associated, under the circumstances of the time, a frank and often most harsh pursuit of the real or imaginary interests of the local community. It has been justly said that, far from approving to-day conduct of that kind, we are often unable even to understand it.<sup>10</sup> But, in spite of this, we must recognize that the period of municipal power has its explanation as a necessary stage in the economic education of society; and therefore its historical justification. It is the activity of this period which we are now going to examine more closely; with this additional reason for doing so that many of the rules which had come into being in the towns were extended in the subsequent period to the wider community of the nation, and contributed

largely to the formation of what is known as "the mercantile system."

In seeking to draw a picture of municipal life, which shall be true of English towns generally, there are two difficulties. The one is the great differences between the magnitudes of the several towns; the other, in large part a consequence of the former, the incomplete synchronism in their development. London, at the beginning of the fifteenth century, would appear to have had a population of about 40,000. No other English city had half that number. York and Bristol had each some 12,000; Plymouth and Coventry some 9000; Norwich, Lincoln, Salisbury, Lynn, and Colchester, between 5000 and 7000; while most of the other historic towns had only from 1500 to 5000 inhabitants.<sup>11</sup> Nevertheless, the difference between London and the other towns, still more between York or Bristol and the rest, was one of degree rather than of kind, of quantity rather than of quality. The mass of individuals, of commodities, of transactions that had to be dealt with, was larger; the mechanism of government needed to be subdivided or duplicated; the organization was more minute; but the general resemblance was complete. The want of exact parallelism in growth is a more serious difficulty. From fifty to a hundred years often separates the establishment of a particular constitution or custom in one of the greater towns from its establishment in a smaller. In attempting therefore to give a general impression of municipal life, it will be understood that the account will only be roughly true; that it will correspond with greatest accuracy to the average middle-sized town, such as Southampton, or Nottingham, or Newcastle; and that while in the larger cities it will be true of the beginning of the fifteenth century, it will not be true of the smaller till the century is drawing to its close.

§ 25. The first feature in town<sup>1</sup> life which we have to notice, and one that it had inherited directly from the most flourishing period of the gild merchant [§ 7], was the well-nigh complete monopoly of trade within its walls by the burghers; not, of course, by all those persons who happened to live within the town limits, but by the "freemen," by those who had been formally admitted to the citizenship, the "franchise," by the proper authorities. The word "monopoly" gives perhaps an exaggerated impression of their practice; since outsiders, or "foreigners," as they were called, whether they came from a town in England or abroad, were as a matter of fact permitted to enter and carry on trade, under certain conditions as to time and place. The right of the citizen-body might better be described as that of surveillance and control in their own interest. But however wide might be the liberty actually enjoyed by "foreigners," it was always regarded as something exceptional, as a conditional favour, a more or less grudging concession dictated by expediency. "Only with the consent of the burgesses," as many of the charters expressly stated, could any person who was not a burgher carry on trade within the town.<sup>12</sup> This trading monopoly had been obtained in most places by the gild merchant, and had been kept ever since.<sup>13</sup> The gild merchant was still, in the early years of the fifteenth century, a name to conjure with; and when a little town like Cirencester sought to free itself from the jurisdiction in trade affairs of a local magnate, and enjoy the stern pleasure of pillorying its own fraudulent bakers, it was the grant of a gild merchant for which it petitioned.<sup>14</sup> In some few towns the gild merchant with its control of trade retained an existence apart from the municipal government, so that a burgher was not necessarily a member of the merchant gild—a condition of things which at Cambridge lasted down

to 1547.<sup>15</sup> But in most places the machinery of the gild and of the municipal government had already coalesced; the gild merchant had either entirely disappeared, and its powers passed over to the corporation, as in most cases; or, if it survived in name, it was but a vague designation either for the municipality itself in its capacity as regulator of trade, or for the aggregate of the trade associations.<sup>16</sup>

The conditions under which "strangers" or "foreigners" were permitted to carry on trade in the towns were so complicated, and varied so much from time to time, that they are hardly to be summed up in any one generalization. We may, however, distinguish three fixed points: 1st, strangers were subject to tolls, from which burgesses were partially or wholly exempt;<sup>17</sup> 2nd, strangers were not permitted to buy from or sell to other strangers, except in fairs, and, in some places, on certain market days; and 3rd, strangers were not permitted, with the same exceptions, to sell goods by retail.<sup>18</sup> To these three privileges the towns most tenaciously clung. The first, indeed, was generally looked upon during the later Middle Ages as a matter of course; but for the last two it was necessary for them to make a hard fight. We have already seen how Edward I. and Edward III., guided by their fiscal interests,—to wit, the increase of customs and the easier negotiation of loans,—had broken down many of the barriers in the way of alien merchants, especially those which limited their residence in England to forty days, and prevented their going inland or trafficking with any save the burgesses of the port at which they landed. Edward III. had even gone further, and by the statutes of 1335 and 1351 had abolished all restrictions. Merchants and all other persons, of whatever condition or estate they might be, were by the former Act permitted to trade with whomsoever they pleased, and



by the latter to sell in gross or at retail, or by parcels, at their will.<sup>19</sup> But these measures disturbed the very foundations of mediæval town life.<sup>20</sup> Traders from outside were welcome when they brought with them foreign commodities which the burgher merchants could make a profit by retailing, or when they purchased for exportation the commodities which the burghers had procured for that purpose from English craftsmen and agriculturists. They were welcome, that is to say, so long as they were ready to serve the interests of the burghers; and when they sought to thrust these on one side they seemed to be violating the very condition upon which their presence was allowed.

But in spite of repeated petitions from the towns,<sup>21</sup> alien merchants enjoyed for more than a quarter of a century (1351-1377) complete liberty of trade—as complete, that is to say, as statutes could give it. Doubtless it would be only the largest towns that would be affected to any considerable extent by the advent of aliens; and there the magistrates would make every effort, by means of market ordinances and the like, to retain as much as they could of the substance of their earlier rights. A decade and a half (1377-1393) followed of fluctuating policy on the part of the government.<sup>22</sup> On the one side was the tradition of Edwardian policy; together with the circumstance that the landowners,—who had an irresistible power in Parliament when they chose to act together,—were usually of opinion that it was for their interest that foreign traders should be unhampered in their operations. They believed that they might thus get a larger demand and a better price for their own products, especially for their wool. It is doubtless to motives of this kind that we may ascribe, in part, at any rate, the abolition by the baronial majority in the Parliament of 1387 of the privileges which London had regained but a



few years before. On the other hand, the government began to realize that as English merchants increased in number and wealth it became increasingly expedient to cultivate their friendship. And it was certainly an anomaly to allow persons who did not share in the burdens of burghership to enjoy its most valuable rights.<sup>23</sup> Moreover, England could hardly fail to be affected, in a matter of this kind, by the general practice in the rest of Europe. Had England stood alone, the central government might have been able to force its will upon the recalcitrant burgesses; but in other countries, notably Germany, Flanders, and Italy, whence came most of the alien traders, the larger towns enjoyed an almost complete autonomy, and were using their power to carry out the general civic policy with thoroughness and decision. The cry arose from the English towns that foreigners ought not to be better treated in England than our merchants were abroad. This was an earlier form of the "fair trade" argument, and one somewhat more justifiable than its form in our own day; like most "fair trade" cries, it was conclusive with the populace. At last, in 1393, the towns were victorious: a statute of that year altogether forbade aliens to deal with one another or to engage in retail trade (except in common victuals).<sup>24</sup> The weakness of the Lancastrians, and the bourgeois sympathies of the Yorkists, confirmed the victory of the towns; and until the end of the Middle Ages, and, indeed, far into modern times, these two limitations of the liberties of non-burghers remained fixed in municipal codes.<sup>25</sup>

How completely the towns were successful in their main contention has been obscured by two minor issues. The one was whether alien merchants should be excluded from dealing not only with other aliens, but also with Englishmen who did not happen to be burghers of the town to

which they came. Such an exclusion was in conformity with the old conception of burgess rights and the old privileges of the gild merchant; and it was implied by the wide language of a statute of 1404, which laid down "that no Merchant, Alien *nor Stranger*, should sell any Manner of Merchandise to any other Merchant, Alien *or Stranger*, upon pain of forfeiture of the same Merchandise."<sup>26</sup> But although in some towns, for instance in York,<sup>27</sup> the burghers were able to maintain such a rule, with occasional relaxations, in London it was nearly impossible. London had become the entrepôt whither men came from all parts of England with their wares. This was especially the case with the growing body of cloth manufacturers and dealers; and it was irksome to them to find that in every bargain between an Englishman from the country and an alien, a London citizen had to be called in to act as intermediary. Accordingly a statute of 1406, which had special reference to London, permitted all merchants to carry on *wholesale* dealings with any of the king's subjects.<sup>28</sup> It will be noticed that the London citizens retained their monopoly of *retail* trade, even against their fellow-subjects; and in the wholesale cloth trade itself, the London magistrates were able to place very severe restrictions on the liberty of country drapers.<sup>29</sup>

The other minor issue was also one which aroused much bitter feeling. It had to do with the old regulation which compelled every alien merchant during his residence in England to abide in the house of a burgess assigned to him as his "host" by the town magistrates. The purpose of this rule was that every transaction of the alien should be subject to scrutiny, and that aliens should not have an opportunity to conspire together to deceive innocent Englishmen; for, in the imagination of the men of the time, two

foreigners could hardly come together without plotting some mischief. While in this country the rule had fallen into abeyance, English merchants were irritated to find that abroad the restriction was rigidly enforced.

“What reason is ’t that we should go to host  
In their countries, and in this English coast  
They should not so; but have more liberty  
Than we ourselves?”

asked the writer of the rhyming pamphlet called a *Libell of English Policy* (1435).<sup>30</sup> In 1404 a statute was passed making it compulsory to “go to host,” as the phrase ran; but this was soon repealed.<sup>31</sup> It was re-enacted in 1416, but not enforced.<sup>32</sup> On the accession of Henry VI. the representatives of the towns in Parliament obtained a promise from the government that the law should be put into force, in return for a grant of tonnage; and the disregard of this obligation by the Chancellor, the Bishop of Winchester caused so much discontent in London and some of the other towns,—notably York, Coventry, and Chester,—that there was some difficulty in restoring order.<sup>33</sup> In 1439 the government once more deemed it expedient to feign acquiescence, and sanctioned a statute establishing a most elaborate code of regulations;<sup>34</sup> but it was never put into effect; and when the period of eight years had elapsed for which the Act had been passed, it was suffered to drop. The rule was indeed one that a weak administration was utterly unable to enforce, now that foreign commerce was growing; and the government was wise in refusing to make the attempt.

But if aliens were to be allowed to remain in England as long as they pleased, they must be subjected to the same burdens as fell upon English burgesses. Accordingly there is to be observed something like an effort to secure the

incorporation in the burgher body of such merchants as intended to reside in the country. On the one hand, we find aliens visited with special taxation, in order, apparently, to coerce them into taking up letters of naturalization; and on the other, we find that letters of naturalization were granted on very easy terms.<sup>35</sup> Once naturalized, it would be easy enough for a prosperous trader to secure admission into one of the great city companies, and thereby to the city franchise; and many individual aliens had for some time made use of the opportunity.<sup>36</sup>

It might seem, then, that the efforts of the English burghers had been altogether thrown away; that they had been struggling uselessly against economic forces which were certain in the long run to triumph. But this is a superficial view of the episode. The result of the contest was that the alien merchants in England were forced, at least outwardly, to assume the position of Englishmen. The rights which they continued to enjoy they must enjoy as burgesses, and not as exceptions to the life around them. Most of them doubtless long retained their foreign sympathies; but many would after a few years become identified in interests with the English burghers in the midst of whom they dwelt; and their children, at any rate, would grow up as Englishmen. Had the English burghers not opposed them, the aliens would have secured an equally great, or even a greater, liberty of trade; but they would have exercised these rights as something exceptional, granted to their particular town or province. There would have been, not a number of London burghers of alien origin, but half a dozen little groups of aliens, looking upon themselves as colonies in a foreign country, and cut off from the citizens around them by their special privileges and their peculiar relation to the government. The efforts of the burghers

were indeed, in the main, dictated by a narrow view of personal interest, and were kept up long after the situation had so changed as to render them of no avail; yet they were the natural outcome of the town life of the period, and among the influences which helped to enrich and unify English national life.

But there were other directions in which the civic control of trade was exercised. An important instrument in the hands of the magistrates was their authority over the markets and other places of sale. They determined at what places and times "freemen," *i.e.* burgesses, and "foreigners," *i.e.* outsiders, should offer their commodities for sale.<sup>37</sup> Special market-steads or market buildings were often allotted to strangers: thus, in London, the Leadenhall was assigned not only to such strangers as came with poultry, cheese, and butter,<sup>38</sup>—articles of commerce still associated with its name,—but also to Frenchmen and other foreigners bringing canvas, linen cloth, articles of iron, and a variety of other wares;<sup>39</sup> while to Blackwell Hall were obliged to resort, from 1398 onward, all "manner of person, foreigner or stranger, bringing woollen cloth to the city for sale."<sup>40</sup> The market-stead was frequently an open place, at cross-roads,—often known as Carfaxes,—or at church corners. The craftsmen of the town were subject to similar restrictions: each industry and trade had its own row or street in which alone that occupation could be carried on.<sup>41</sup> In the later part of the period we are now considering it became usual for the municipalities to construct rows of "stalls," "booths," "houses," or "halls," and to add to the civic revenue by the rents which they were able to exact for their use. Thus, the "Butchers' House," the "Mercers' House," the "Drapers' House" or "Drapery," and the stalls of the

tanners, shoemakers and ropers, were sources of considerable profit to the town of Nottingham.<sup>42</sup>

The rules of the market were designed to compel all dealers to display openly what they had to sell, and thus to give citizens who came to buy the advantage of knowing what the supply was. Accordingly, it was usual to order that sales should not commence before a certain hour, or before the market bell rang,<sup>43</sup> and that unsold commodities should not be removed until they had been exposed for sale for a certain period.<sup>44</sup> As the magistrates, supported by the great body of townsfolk as consumers, were anxious to prevent *regrating*,—to prevent, that is, dealers or “hucksters” from making a profit out of the consumer by buying up the supply of corn or other provisions from strangers who brought them to market, and then retailing them,—it was customary to prohibit persons who intended to sell again from purchasing before a certain hour.<sup>45</sup> With the object, moreover, of preventing any advantage which could be secured to the town from falling to the inhabitants of the surrounding districts, it was sometimes ordered that certain commodities produced by townsmen should not be sold at all to persons “dwelling out of the town;” for instance, that the tallow in the hands of the town butchers should be sold only to the town chandlers.<sup>46</sup>

In many towns there were, from an early period, public scales, both for weighing such articles as paid toll according to weight, and for voluntary use, in order to preclude the possibility of fraud. For this latter purpose it was that an act of 1429 enacted that every city and borough should provide a “common balance and weights,” which inhabitants might use without charge, and “foreines” or strangers for a small fee.<sup>47</sup> For fine goods the Small Beam, or Balance, was used; for coarse goods, weighed by the hundredweight,

the king's Great Beam, or *Tron*.<sup>48</sup> *Tronage*, or the right to have such a beam and receive the dues therefrom, was a source of considerable revenue, which the government often endeavoured to reserve for itself, or to confer upon favourites. London received a grant of it as early as the reign of Henry III.<sup>49</sup> In the fifteenth century there were several weighing-places in the metropolis. The *Tronage* of Wools at the Leadenhall was held by the mayor in his capacity as an officer of the Staple;<sup>50</sup> while "merchandise brought from beyond the seas" was weighed at the King's Beam in Eastcheap, in a building known as the Weigh-house, belonging to the Grocers' Company.<sup>51</sup>

The dignity and social consideration of the municipal authorities were heightened in the more important towns by the machinery of "Statutes Merchant" and "Statutes Staple;" and the general use which was made of their powers in this respect by others besides the townsfolk is an additional illustration of the part played by the towns in mediæval life.

It has already been explained [§ 23] that the Statute of Merchants, or of Acton Burnell, in 1283, had established a new and simple procedure for the enforcement of the payment of debts, and that an ordinance of 1311 had entrusted the authority necessary for the purpose to the mayors of certain twelve towns. The essential part of this procedure was the execution of a bond by the debtor, which was signed in the presence of the mayor, and sealed with a seal specially provided for the purpose. This seal was solemnly handed over by the old mayor to the new at his entry upon office.<sup>52</sup> A further extension of the functions of the mayor resulted in several towns from the institution of the staple. For some years after 1353 the staple was fixed in a number



of English towns; and even after Calais became the chief staple centre, and the place to which all exports of staple goods had to be carried, several places in England,—especially Boston, Chester, Newcastle, Westminster, Chichester, Exeter, Southampton, and Bristol,—retained the name and apparently much of the machinery of staple towns.<sup>53</sup> Each staple town had a “mayor of the staple,” originally selected by the merchants of the staple, and distinct from the mayor of the town; but we soon find,—certainly in Bristol and Southampton, and probably elsewhere,—that it had become usual for the mayor of the town to act also *ex officio* as mayor of the staple.<sup>54</sup> But by the great Statute of the Staple, of 1353, the mayors of the staple had been authorized to take recognizances of debts under the seal of the staple, very much in the same fashion as under the Statute of Merchants. Bonds entered into under the earlier act came to be known popularly as *statutes merchant*, those under the later as *statutes staple*, and after a time they came to differ from one another in nothing but the circumstance that statutes staple were drawn up before the staple officers, or the town magistrates in their capacity as staple officers. Accordingly in some towns there was still another seal to be handed over when one mayor succeeded another. At Bristol “the old mayor delivered unto the new mayor the king’s sword, and his hat, and the casket with the seal of office, the seal of the Statute of the Staple, the seal of the Statute Merchant, with other authentic seals included in the same.”<sup>55</sup> The use of statutes merchant and statutes staple was resorted to freely by merchants in their ordinary business transactions; and it is equally of interest to observe that the procedure was utilized by the landed classes as a simple means of securing the quiet possession of an estate of land.



It was easy to annex to a fictitious recognizance or statute merchant a deed which made it void so long as the nominal creditor remained unchallenged in possession of the estate.<sup>56</sup>

§ 26. The next important feature in town life was the control of industry; and the way in which this was exercised is especially significant, since it displays even more completely the same love for corporate action as we have already seen in the matter of trade. It is necessary, however, first to look at the civic constitution of which it formed part, and to notice the difference between the ideas which underlay that constitution and those which had characterized earlier conditions. It has been mentioned in an earlier section [§ 8] that burgher rights would appear to have been originally associated with tenure,—with the holding of a “burgage” tenement; and it is natural to conclude that when a body of mere residents made its appearance, there would arise a certain collision of interests. This may fairly be looked upon as the explanation,—at least in part,—of the suspicion with which some of the crafts were at first treated in several towns.<sup>57</sup> But before or during the fifteenth century a complete change took place. Citizenship came to be associated in every considerable town with membership of one of the associations or organized bodies known as “misteries,” “crafts,” and, later, “companies.” Only persons properly admitted to one of such bodies could carry on any occupation within the city limits, or enjoy any other of the rights of burghership; and in many instances the town council itself was wholly or in part composed of the elected representatives of the companies.<sup>58</sup> The change may be summed up in the two phrases which Maurer has employed to describe the similar transition in the towns of Germany: an association of persons *as persons* had taken the place of an association

*based upon land*; so that the civic tie may be said, using the well-known legal distinction, to have been no longer "real" but "personal." Looking at it from another point of view, a constitution based on immovable wealth may be said to have been superseded by one based on movable, if we include in this latter conception not only "capital," but also skill, experience, and business connection.<sup>59</sup>

Of these "misteries,"—to use the term most commonly applied to them at the time,—some were the direct descendants of earlier craft guilds; some had been organized by the municipal authorities themselves in order to secure the due supervision of hitherto unregulated groups of workmen;<sup>60</sup> some, like the drapers and mercers, were associations of persons carrying on branches of trade which had only recently come into existence. The social position of their members extended along almost the whole gamut of wealth, from the cobblers, with their little stalls, to the wealthy drapers, mercers, and grocers, whose ships were creating for England its first independent foreign trade. But different as they might be in this respect, all the citizens were alike in being obliged to belong to some recognized body; and every craft, however poor its members, had its own officers to act as its representatives in its dealings with the municipal authorities, its own place in the town records, and in the town pageants. In earlier centuries the merchant guild had stood above all the craft guilds, and had exercised or claimed jurisdiction over them. But now, owing to a concurrence of forces, the merchants of the town had come to be themselves grouped in associations, which stood not above but alongside of the purely artisan bodies; in a position of priority, perhaps, but not of authority. Each body, whether merchant or artisan, occupied, in all essential respects, the

same relation to the municipal government, and shared a common title, whether "mistry," "company," or "occupation." The burgess-body was thus no longer a simple community; it had become a complex one, itself composed of subordinate communities. It may be roughly compared to the Universities of Oxford or Cambridge, themselves composed of collegiate bodies.<sup>61</sup>

Parallel with this development in the municipal constitution, went a development in the position of the "misteries" in relation to their occupation, and also in relation to the rest of their fellow-citizens. At first the craft guilds had either been entirely devoid of sanction by public authority; or, if they had been recognized by the royal government and had received power over the men following their craft, this position had been conferred by an authority outside the town, and had no sort of organic connection with the town constitution. The craft association, instead of being subordinate to, or a constituent of, the governing body of the town, was therefore often regarded by the full-burghers as standing outside it, as a hostile and disturbing rival. This position of affairs is sufficiently illustrated by the early relations between the citizens of London and the weaver's gild.<sup>62</sup> But now an altogether different condition of things had arisen. The "misteries" were now not only associations of men banded together to pursue their own interest; they were regarded as members of a greater body. In their political aspect, they formed the subordinate mechanism of self-government and the organs of local administration. In their economic aspect, they were the instruments by which the town carried out that policy of supervision which the opinion of the time deemed necessary. Indeed, we may go farther, and say that, in idea, and in the feeling of their

better men, the occupations of the divers misteries were themselves functions which it was their duty to exercise for the common good; not merely opportunities of gain, but also public trusts.<sup>63</sup>

But from the fact that only members of "misteries" could take part in the government of the town, we must not draw the common conclusion that what we should now call a "democratic" rule had been established. Wide differences in wealth resulted in wide differences in power. The "greater," or "trading," companies,—the "livery companies" as they came to be called in London,—had everywhere a preponderating influence. Within the companies, again, an aristocracy of wealth and power soon made its appearance; and everywhere the more opulent citizens filled the offices and carried on the routine of administration.

It must also be noticed that however completely the craft organization had entered into the constitution of the town, the authority of the municipal government over all persons and bodies within the city walls remained clear and unquestioned in theory; and, in the main, in practice also. The mayor and council were recognized,—to use the language of a petition from certain Bristol crafts,—as having "power to correct, to punish, amerce, and redress as well the maisters and all other persons of the crafts, every one after his deserving and trespass, as the case asketh."<sup>64</sup> This authority had been enlarged and confirmed by the statutes which had conferred upon the mayors of towns the powers of justices of the peace and justices of labourers.<sup>65</sup> The subordination of the crafts found expression in many formal acts. When the mayor attended divine service in state on the great festivals, all the "fellowships" were compelled to follow in his train.<sup>66</sup> It was usual, again, for the newly elected masters and wardens of misteries to appear annually before him, and

take an oath to carry out only such rules as the municipal authorities had approved, and to do nothing against the estate and peace of the king or the town.<sup>67</sup> Before the chamberlains of the town every new apprentice had to be presented, and his indenture enrolled; and there he again appeared, at the end of his term, to be admitted to the freedom of the city, after he had become a freeman of his company.<sup>68</sup> The author of *Piers Plowman*,—echoing, doubtless, a considerable volume of contemporary opinion,—thought that the civic authorities ought to take this opportunity to exclude from the franchise all persons who sought profit by usury or regrating:

“For-thy mayres that maken free men • me thynketh that thei ouhten  
 For to spure (examine) and aspye • for (in spite of) eny speche of silver  
 What manere mester • other (or) merchandise he usede  
 Er he were undersonge free • and felawe in youre rolles.”<sup>69</sup>

In the mayor and “his brethren” resided the ultimate jurisdiction in trade disputes and breaches of regulation. In many of the misteries the officers had no judicial authority of any kind, and their only duty was to present offenders before the mayor; although the latter would usually cause a jury to be empanelled from the craft, and obtain an opinion from them before giving judgment:<sup>70</sup> while in all the crafts the masters and wardens were wont to have recourse to the authority of the mayor in cases of difficulty. The English misteries never attained the degree of autonomy enjoyed by many a German *Zunft*. But it must be observed that, although the supremacy of the municipal authority was not seriously infringed, the misteries did not all stand in exactly the same position, and some of them claimed very considerable rights of jurisdiction over their members. Thus in London,—where the position of affairs was complicated much in the same way, though probably not to the same degree,

as we are told that it was in Paris,<sup>71</sup>—a few of the older guilds had received royal charters to which they could appeal as giving their members the right to be tried by a court of the gild, and no other.<sup>72</sup> We may conjecture, moreover, that the rule which the companies, as well as the religious fraternities, usually insisted upon,<sup>73</sup> that no member should “take the law” of another without the license of the officers of the fellowship, must occasionally have created a certain friction;<sup>74</sup> although the fact that there is little evidence of any collision with the town courts would seem to show that the companies did substantial justice.<sup>75</sup> But when the greater companies secured from the crown,—as they sometimes did,—rights of search which were obnoxious to the municipal authorities, a costly struggle took place at the royal court. This was the case, for instance, with the Merchant Taylors of London, in 1439–1442.<sup>76</sup>

In York difficulties of a somewhat similar character must have arisen, for a town ordinance of 1519 ran as follows: “It is agreed that the Searchers of no Occupation within this City, Suburbs, and Liberties of the same, shall ~~have~~ the Correction and Punishment of the Defaults done ~~and~~ committed, concerning all the said Occupations or any of them; but that the same Defaults hereafter shall be punished and redressed only by the Mayor . . . and his Brethren; and Half of the Forfeiture of the said Defaults shall remain to the Weal of the said City, and the other Half to such Occupation as the Case shall require.”<sup>77</sup> Yet, even after a sweeping ordinance like this, we find three companies,—that including the Merchants, Grocers, Mercers, and Apothecaries, that including the Drapers and Merchant Taylors, and that of the Lincn Weavers,—still in this sense “exempt from the Jurisdiction of the Lord Mayor,” and “holding their Privileges of Charter.”<sup>78</sup>

It was of the essence of this organization of the town in misteries that no person should be allowed to carry on any occupation within the limits of its franchises unless he had been admitted a freeman in one of the crafts, and, thereafter, a freeman of the town. There are, however, but few indications of the policy, which is so marked in the towns not only of the Netherlands and of Germany but also of Scotland,<sup>79</sup> of aiming at a legal monopoly of manufacture for the surrounding country, and crushing out all rival industry in the villages. This was partly because the central authority was stronger here than on the Continent or in Scotland; but partly, also, because their trade was not, as a matter of fact, to any large extent interfered with by the growth of manufactures outside. Still there are occasional traces,—for instance, in the charter to the weavers of York, and in that to the men of Nottingham,<sup>80</sup>—of an attempt to prevent the neighbouring hamlets from rivalling the towns in the production of cloth.

In viewing this complex of civic regulations, we may find the explanation of their main characteristics in the stage which had then been reached in the development of industry. The organization of industry in the shape of local groups was coincident with the period of production for a local market. Supplying, as each craft did, only the town and its immediate neighbourhood, meeting a demand which was comparatively stable, and producing but a small supply, it was possible to subject it to a minute supervision, in the interest alike of the producers,—as, for instance, in the rules for admission into the trade,—and of the consumers,—as in the rules about the quality of the wares.<sup>81</sup> When these conditions changed, the system necessarily gave way. But we shall return to these considerations when we come to deal with the internal life of the crafts.



§ 27. An exercise of authority closely connected with the preceding, and one which may be regarded as but a special branch, adapted to a department of trade of more than usual interest for the public, was "the surveying of victuals." This included the issue from time to time and the enforcement of the Assizes of Bread, Ale, Wine, and the like, as well as the regulation of prices, places of sale, and quality in the case of all other victuals, especially flesh and fish. Unlike the other crafts, which were, to a large extent, left to themselves to impose such restrictions upon their members as they saw fit, and to enforce them by their own officers, the "victualling crafts" were kept closely under the mayor's control; and it was by the municipal authorities that the periodical assizes and other regulations were issued. Persons known as *ale-conners*<sup>83</sup> and *flesh-conners*<sup>83</sup> were usually appointed by the borough authorities to carry out the "search;" and in order to guard against personal interest, it was for a long time a fixed principle that no mayor should deal in victuals, either in gross or by retail.<sup>84</sup> So important was the matter deemed that it was common to insert in the oath of office either of the mayor or bailiff a special clause promising to faithfully carry out this part of the magistrate's duty.<sup>85</sup> In Ipswich the promise ran: "That ye shall make diligent serche of and upon the assizes of brede, ale, and wyne, and all other manner of aytaybles, and upon all weights and measures in the town, burgh and subburbis of the same. And that ye see dewe and hastye excusyn to be doon uppon all suche defawlte as shall happen to be found in any suche causes."<sup>86</sup>

The earlier history of this system has been already sketched [§ 21]. It need only be added that during the fourteenth and fifteenth centuries parliament and the executive left the matter almost entirely in the hands of



the local authorities. Several of the towns had been granted the assizes of bread and ale by early charters : " <sup>87</sup> a statute of 1349 gave a general authority to the magistrates of every town to inquire of all dealers in provision who refused to sell at a "reasonable price : " <sup>88</sup> and the letters patent which had been occasionally issued to individuals, conferring upon them the power of survey, were rendered null by a statute of 1473. It was then enacted that no persons other than the mayors or other governors of cities or towns, or others entitled by point of charter (*e.g.* the Vice-Chancellor and Scholars of Oxford), should exercise any such office. <sup>89</sup> The town records contain whole codes of regulations dealing with the various branches of this jurisdiction. <sup>90</sup> Their objects we have already seen, viz. to secure good quality, just weight, and fair prices,—the last of these not only by the direct limitation of charges to what was called "the mayor's price," <sup>91</sup> but also by measures to prevent middlemen or middlewomen (regrators, regratresses, hucksters, etc.) from getting between the producer and the consumer. <sup>92</sup> It was thought to be wrong that a man should secure a profit merely by shrewdness in taking advantage either of temporary fluctuations in supply or demand, or of the ignorance of his fellow-men ; contributing nothing himself to the value of the commodity, but selling it again, as it was phrased, "in the same kind." <sup>93</sup> In order to facilitate supervision, it was usual to order that no person should "occupy" at the same time "two victualling crafts." <sup>94</sup> And the municipal authorities frequently went beyond victuals, and regulated the prices of other articles of prime importance to the poorer classes, such as wood and coal, tallow and candles. <sup>95</sup>

It has been argued, with much apparent reason, that the survey of victuals owed its origin not to the spontaneous action of the townsmen moved by their supposed interests as

consumers, but to the policy of national rulers aided by the influence of the Church.<sup>96</sup> But if this were the case, it had become so rooted in the minds of the people as early as the fourteenth century, if not before, that pressure from above and outside was no longer requisite. The most popular policy a magistrate could pursue was rigorously to enforce the assizes. The author of *Piers Plowman* calls upon mayors and masters (*i.e.* of crafts?), and all those who are set between the king and the commons, to see that the laws be kept, and that brewsters, bakers, butchers, and cooks be properly "punished on pillories and on pinning-stools." These, he declares, are "the men upon earth who work most harm to the poor people who buy parcel-meal."<sup>97</sup> As might be expected, the belief of the middle and lower classes of the town population in the efficacy of such measures culminated at the very time when circumstances began to render them impracticable.<sup>98</sup> But to this we shall return later.

§ 28. The sense of solidarity in the life of the townsmen was expressed and strengthened by a number of common undertakings, and by the possession of no little town property, from which the great body of the citizens, especially the poorer classes, derived considerable benefit. The common property, such as town pastures and town mills, was a survival from a previous period in the life of the towns when they had been but agricultural villages: the common undertakings, on the other hand, appear first in the fifteenth century, and become more important in the sixteenth. Moreover, at the very time when some of these municipal undertakings, such as the supply of food, were engaging most attention, the common lands were in many places being removed from the use of the burgesses. But as common property and common undertakings alike illustrate the corporate life of the several communities, they may be

conveniently grouped together in this place, and after the explanation that has just been given, no serious misconception is likely to arise.

The most striking to a modern reader of all the subjects falling under this head was the public provision of corn by the municipal authorities to meet seasons of scarcity. It had from an early period been regarded as the duty of the town magistrates to see that the population under their charge was sufficiently provided with food. This was one of the ideas underlying the policy of the Assize of Bread. Further illustrations may be found in the London ordinances of the reign of Edward I. concerning the "hallmoots" of the bakers, and especially in the account there given of the object of the hallmoot after Easter, which is said to be "as well to provide for the king's arrival as that of the great men of his realm, so that no want of such resources may arise."<sup>99</sup> Another may be noticed in the inquiry which formed one of the articles of the Inquest of the sheriff of York: "whether the bakers have sufficient bread to sell, and whose default it is that they have not enough to serve the people."<sup>100</sup> It was natural for the magistrates to go a step farther, and in seasons of scarcity themselves make arrangements for the provision of a "store" of grain. This step was taken by all the more populous cities of Germany, for instance by Nürnberg, Augsburg, Breslau, Strasburg, and Frankfurt, early in the fifteenth century: Charles V., when he visited Nürnberg in 1540, is said to have tasted out of curiosity bread made of wheat which had been preserved in the city garners no less than 118 years.<sup>101</sup> The adoption of a like expedient was probably prompted in London by the distress of the famine year, 1438. The mayor of the time, Sir Stephen Brown, "charitably relieved the wants of the poor citizens by sending ships at his own expense to Dantzic,

which returned laden with rye, and which seasonable supply soon sank grain to reasonable rates.”<sup>102</sup> “He is beheld,” says Fuller, in his eulogy of him, “as one of the first merchants who, during a want of corn, showed the Londoners the way to the barn-door, I mean Spurmland.” Not long afterwards, the wealthy draper and former mayor, Sir Simon Eyre, built “a certain granary at Leadenhall, of his own charges, for the common utility of the city.”<sup>103</sup> It became a regular practice for the city to provide corn in times of dearth, and retail it at a reasonable rate; but until 1520 the necessary funds were obtained by voluntary contributions or loans from the mayor and aldermen and other wealthy citizens, who were repaid when the corn had been sold. Stowe graphically describes the experiences of 1512, an unusually dear year.<sup>104</sup> “Roger Achley, mayor of London in the year 1512. . . . When the said mayor entered the mayoralty, there was not found one hundred quarters of wheat in all the garners of the city, either within the liberties or near adjoining; through the which scarcity, when the carts of Stratford came laden with bread to the city, as they had been accustomed, there was such a press about them that one man was ready to destroy another in striving to be served for their money. But this scarcity did not last long; for the mayor in short time made such provision of wheat that the bakers, both of London and Stratford, were weary of taking it up, and were forced to take up much more than they would, and for the rest the mayor laid out the money, and stored it up in Leadenhall and other garners of the city. This mayor also kept the market so well that he would be at the Leadenhall by four o’clock in the summer’s mornings; and from thence he went to other markets, to the great comfort of the citizens.”<sup>105</sup>

In 1521 the plan was adopted of imposing an assessment

for this purpose upon the "fellowships of sundry misteries and crafts." The usual practice from that time onward was as follows. An Act of Common Council was first passed determining the sum to be levied. This was divided among the companies at the discretion of the mayor and aldermen, and precepts for the amounts were issued to their wardens. The wardens then assessed the individual members of their company; the money was collected by officers called "corn-renters;" and it was finally paid in to the bridge-masters of London bridge, or to the chamberlain of the city, and bonds were entered into by these officials for the repayment of the loan.<sup>106</sup>

Until nearly the middle of the sixteenth century, purchases would seem to have been made only in years of exceptional dearness; although it was apparently a generally accepted opinion that there ought to be a permanent store in the city garner.<sup>107</sup> A pamphleteer of 1535 complains that "London hath not made provision to victual itself," and prophesies that "never shall be victuals in London plenty for poor people to drape fine woollen cloths nor to make all works of artificiality good cheap, before London victual itself like as it was victualled in old time."<sup>108</sup> From 1543 onward, however, it was found advisable to make large purchases almost every year; and in 1565 annual purchases were ordered: "The Lord Mayor and Aldermen shall yearly provide and buy for the city's provision use and store a great and substantial mass and quantity of wheat, at such time of the year as the same wheat may be had for x or xiis. a quarter, and that they shall make yearly the like provision of rye and barley at such time of the year as the same shall be most plentiful and best cheap."<sup>109</sup> The authorities usually aimed at keeping in stock some five thousand quarters.<sup>110</sup> As a rule the corn was sold at cost price<sup>111</sup> to bakers and

brewers and the general public. In periods of great dearth, bakers were restricted to a fixed quantity; and in periods of plenty, when the city had too large a supply on its hands, they were forbidden for a time to purchase elsewhere. The city markets and granaries were inspected by the mayor and aldermen from time to time; and under their supervision, or, later, that of the companies, specified quantities of corn were "put to sale" in the markets every week. Until the settlement at the Steelyard was broken up in 1558, a contract was annually made with the merchants of the Hanse for the necessary supply: *e.g.* in 1544 for as many as eight thousand quarters; although purchases were also made in Norfolk, Suffolk, Sussex, and other parts of the kingdom, and loans from "the king's wheat" were occasionally granted by the Privy Council. At a later period, corn was still obtained from Danzig and the Baltic; and when the Eastland Company was formed, its members engaged in the same business.

As late at least as 1528 there were "garners" at Leadenhall, as well as on the bridge; but soon afterwards the Bridge House became the sole repository. The Bridge House had been built over the last two arches on the Southwark side of the river. In accordance with an order of the Common Council of 1559, "that the city's store be ground," mills were erected on sheds in front of the piers, and a couple of mill-wheels placed in the channels between the last two. Ten ovens, "of which six be very large,"<sup>112</sup> were also constructed, "to bake out the bread corn of the said grainers, to the best advantage for relief of the poor citizens when need shall require," a great part of the expense being met by a bequest from a former sheriff. To complete the municipal establishment, a "fair brewhouse" was subsequently added, "for service of the city with beer."<sup>113</sup>

A similar provision of corn, though, of course, on a much smaller scale, appears to have been made in many other towns.<sup>114</sup> In Bristol, when "whete, corn, and other graynes rose at a dire price," in 1522, the mayor secured the royal permission by letters patent,—possibly in order to escape from the operation of the statutes against forestalling or engrossing,—and bought up large supplies "within the shire of Worcestre or thereabout;" so that "the inhabitants of the towne were greatly releved and comforted in mynysshing of the price of whete, corn, and other graynys, sold in the open markett of this Towne."<sup>115</sup> There are traces of the same practice in subsequent years.<sup>116</sup> In 1596 so great was the profit on the sale of three thousand quarters of Danzig rye, that "there were clearely gained thereby seauen hundred pounds, a great part whereof was spent in procuring an Act of Parliament for Orphans' Causes."<sup>117</sup>

As the men of every district were equally anxious to secure for themselves the offer of all the corn grown within it, there were likely to be many obstacles put in the way of London or any other town when it attempted to draw supplies from the country. In 1586, when the price of wheat rose to a point half as high again as it had ever before attained, the county magistrates offered so strenuous a resistance to the removal of wheat to London that the mayor had to invoke the aid of the government.<sup>118</sup> When two neighbouring towns were bent on the same purpose, collisions were sure to occur; as in 1532, when the mayor and sheriffs of Gloucester stopped a supply of "wheat and corn" which was on its way to Bristol, and themselves sold it; and were compelled by the Star Chamber to return an equal quantity and pay costs.<sup>119</sup>

In the seventeenth century the whole system of city granaries fell into disorder, and was abused for selfish



purposes. Trade had so greatly developed that no considerable danger was likely to result from leaving the supply of corn to individual enterprise and competition. But there seems no reason to doubt that, in the fifteenth and sixteenth centuries, the city policy was one of great practical wisdom. Probably in no other way could the very considerable amount of capital be provided which was required for making purchases large enough to meet the ordinary demand in a year of scarcity. After it had become usual to make annual provision, the method of purchasing in cheap months and selling in dear was, of course, only that followed by every corn-merchant, save that it was applied on a much larger scale. The same reasons which lead modern communities to supply themselves with water, *i.e.* to prevent individuals from securing the profits of a natural monopoly, would justify mediæval communities in supplying themselves with corn. Trade was so little developed that there was always the danger lest one or two shrewd merchants should secure a practical monopoly. It must be noticed that, even in dear years, it was possible for a town to buy corn in the Baltic, pay for its transportation, sell it at a price sufficiently below that of the ordinary dealer to give general satisfaction, and yet make a profit. When we remember that the aldermen and councillors who ordered the purchases were themselves the men who, as individuals or as members of their companies, had to advance a large part of the necessary funds, it can hardly be supposed that the practice would have been carried on for nearly two centuries had it not satisfied a real need.

The provision of corn by the municipality was especially fitted to attach the poorer inhabitants to the town and its fortunes. A similar result must have followed with the



more substantial citizens in those towns where the magistrates made what were called "common bargains."<sup>120</sup> We have records of such transactions in Dublin and Waterford in the fifteenth century, in the little Welsh town of Neath in the middle of the sixteenth, at Liverpool and Chester at the end of the same century, and in several Scotch towns from the fifteenth to the seventeenth.<sup>121</sup> Although, therefore, Liverpool and Chester are the only clear instances in England, so far as our present evidence indicates, the wide prevalence of the practice in surrounding countries renders it probable that in England, also, it was not uncommon; and the probability is increased by the fact that it would be a natural outgrowth of one of the principles of the merchant gild, viz. that brethren should be allowed to share in advantageous bargains.<sup>122</sup>

At Liverpool all imports had first to be offered for sale to "the Mayor and town." It was thereupon considered, at an assembly in the Common Hall, whether it was "convenient" to have it "as a common bargain for the town." If that were agreed to, Mr. Mayor, guided by the town "Prizers," and with the consent of the assembly, offered a certain price for it. If the importers were dissatisfied with the offer, they had to make the best terms they could, and, by a gift "to the town's use and profit," obtain "liberty to take their best market for the commodity within the town."<sup>123</sup> If, on the contrary, the merchants accepted the offer, the commodity was distributed at cost price among the burgesses, each "after their degree,"<sup>124</sup> or the extent of their business. The imports mentioned in the Liverpool records are iron and train oil, wheat, rye, and barley, and tallow from Ireland, and the rule only applied to wholesale quantities. Thus it was decided in 1591 that any burgess might buy for himself a quantity of tallow not exceeding 1 cwt., or of grain not

exceeding 30 barrels; and, indeed, that supplies of tallow or grain, up to 5 cwt. or thereabout, as being too small to be "fit for a common bargain," could be bought by any free citizen, on condition that he gave public notice, and allowed any other burgesses that cared to be "partakers thereof with him." In Rye, one of the chief of the Cinque Ports, the love for corporate enterprises went even further; a "town ship" took part in the fisheries, and the corporation engaged in "town ventures" in the Gascon wine trade.<sup>125</sup>

The common town property, with the exception of the market houses and market stalls to which reference has already been made, was for the larger part a survival from the time when the interests of the town were mainly agricultural; from the time, indeed, when the germ of the later town was represented by one or more rural manors. Many towns, for instance, had acquired control of the seigneurial mills, and, while insisting that every inhabitant should make use of them, lightened the burdens of civic taxation by the revenue thence derived.<sup>126</sup> In some places, especially in northern towns of recent growth, there were customary ovens or bakehouses which every inhabitant was bound to use.<sup>127</sup> But far more intimately connected with the interests of the townsfolk were the rights which everywhere existed to the use of lands around the town. The arable open fields, with their intermixed strips, of which there are abundant traces in the earlier history of the smaller towns, had, it is true, almost everywhere disappeared; but there often remained, long after the fields had been enclosed, rights of common over the stubble;<sup>128</sup> while common pastures,—or "commons" in the ordinary sense of the term,—on which the burgesses could send their cattle to graze, were almost universal.<sup>128a</sup> Sometimes "the rate and stint" of cattle was graduated according to the dignity of the individual burgess:

thus it was decreed in Oxford in 1565, "that the Mayor for the tyme beinge shall have viii beasts in the comen of Port Meade, and every Alderman vi, every Baylye iiiii, every Chamberlayne iii, every Commoner one."<sup>129</sup> "Pasture masters," or similar officers, were appointed to see that the stint was not exceeded; and there was also sometimes a common herdman.<sup>130</sup> Rights of common were no despicable addition to the resources of a burgher household, especially in the smaller towns; and the enjoyment of them must have marked off the body of burghers still more distinctly from those outside. The townspeople were just as anxious as the inhabitants of rural manors to prevent the people of the surrounding villages from sharing in their commons, and they had an equally obvious interest in limiting the number of those within the town itself who should be permitted to share in their privileges. This is very plainly expressed in the remonstrance of the "Mickleton" jury in Nottingham in 1577, a date at which, as is clear from abundant evidence, the old town economy was breaking up: "We do present that there be made no more foreign Burgesses, but that they be made pay xli, and no money abated—for there is too many already; {by making of them the poor burgesses' commons is eaten up to the great hindrance of all; therefore we will, Master Mayer, no Burgess to be made but of occupations" (i.e. if admitted to a craft), "and if you make any Burgess that hath not been apprentice to pay xl, and no pardon."<sup>131</sup>

To give a more complete picture of the common life of the towns, and of the position of the municipal magistrates as its representatives and centres, it is worth while mentioning, before passing from the subject, one or two instances of civic privileges, which hardly belong to this particular

section. In several of the greater towns the civic authorities had probate of the wills of those who died within their jurisdiction; as, for instance, in London,<sup>132</sup> Bristol,<sup>133</sup> and Ipswich,<sup>134</sup> and the wills were enrolled among the municipal records. As the official maintainer of right and justice, the mayor in Bristol and Exeter, and probably in some other towns, was the guardian of widows and orphans; in the former city a promise to "keep, maintain and defend the widows and orphans of this town safely in their rights," was a part of the mayor's oath of office;<sup>135</sup> and in the latter, the duty was so burdensome that a special office, that of chamberlain, was created in 1555, in order to provide for it.<sup>136</sup> The confidence felt by the citizens in their magistrates is illustrated by the further fact that at Bristol, and probably elsewhere, it was the custom for the founders of chantries, when the endowment was at all considerable, to put the patronage of the chaplaincies in the hands of the mayor, to request his assistance in the administration of the funds, and to provide for the remuneration of the city officers who took part in the work. The "compositions," *i.e.* the bonds or agreements establishing the various chantries with their particular rules, were enrolled in the city books; and in Bristol, we are told, "it hath been used, on the iiiii<sup>th</sup> daie after Mighelmas, the newe maire to let sommen all the chauntry preestis whose composicions are enrolled in the rede boke,"—some eleven in number at the beginning of the sixteenth century,—"to com before the Maire to the Counter, their to take their othes truly to observe their seide composicions." <sup>137</sup>

§ 29. In the sixteenth century the mediæval town system gave way in every direction, and its place was gradually occupied by an organization of trade and industry which rested on the wider basis of the national state. When

this is said, it must not be understood that old things altogether passed away, and all things became new; that one system followed another like dissolving views upon a screen. The relation to one another of stages in social evolution is far more complex. While in each successive period there is much that is altogether new, there is also much that is but an enlargement or wider application of the old. Much, again, that is old continues to survive, although no longer in complete harmony with the prevailing tendencies of the time, because it has some use in a subordinate sphere; or even from the mere force of inertia, because economic forces are not strong enough to sweep it away. We shall see, for instance, that the gild system of industry impressed upon the domestic system which followed some of its most striking characteristics. So, again, in the matter immediately before us. In certain towns and certain industries there remained much of the old system of local monopoly far into the present century. In the time of Adam Smith trade corporations still played so important a part that he thought it necessary to devote several pages to a demonstration of their injurious character; though he probably made the natural mistake of a bookish man, and thought of them as more seriously hampering individual enterprise in his day than was in fact the case. On the other hand, the corporate life of the mediæval town was the direct progenitor of much that is best in modern civic patriotism. Yet we can only arrange the sequence of social phenomena in stages by determining what were the dominating or preponderating forces in any particular period, and what the subordinate; and it is in this sense that we can say that in the sixteenth century a town organization gave way to a national one. Town life never altogether decayed; it remained a considerable element in

the life of the nation as a whole ; but it became a subordinate element, and one continually growing weaker. Let us look at some indications of this lessening strength in municipal institutions.

i. And first, as to the monopoly of trade. Many of the royal charters to towns, from the reign of Henry II. onward, had expressly granted to their merchants freedom from toll throughout England. These grants had, however, but little immediate result ; for their effect was well-nigh destroyed by the legal rule that such an exemption could only be enjoyed by the burghers of one town in another when that other had not received a prior charter granting them the ordinary trade monopoly.<sup>133</sup> Indeed, the law courts under Edward I. went further, and expressly recognized that the mere fact that a monopoly had been exercised immemorially was by itself a sufficient justification,—even if no charter could be produced,—for barring out the burgesses of other towns from free trade ; and as the exercise of a trade monopoly might fairly be argued to be immemorial in almost every considerable town, the words of the charters conferring freedom from toll were practically meaningless. The chief importance of the charters in this respect lay in their continually suggesting the idea that it was possible trade might be free, and that there was a power outside the town which might claim to decide the matter. Far more immediate effect was produced by inter-municipal treaties of reciprocity. Before the close of the Middle Ages England was covered with a network of inter-municipal agreements to exempt the burgesses of the contracting towns from tolls when they came to trade ; and these unquestionably led the way to more complete freedom. They are, indeed, almost the exact parallels, in that stage of economic development, to the international treaties of reciprocity by the aid of which many

modern politicians expect to reach universal free trade. They began as early as the thirteenth century; Winchester and Southampton entered into such a contract in 1265,<sup>139</sup> and Salisbury and Southampton in 1330:<sup>140</sup> and they became more frequent as time went on. A peculiarly interesting series of "compositions" were entered into between Nottingham, Coventry, and Lincoln, in the second half of the fifteenth century.<sup>141</sup> Of course, in making these concessions to one another, the towns were acting in their own immediate interest; but they none the less weakened the foundations of the mediæval polity.

ii. The organization of industry in the towns was weakened partly by internal changes in the misteries themselves, partly by the increased action of the central authority, and partly by the growth of the "domestic" industry of the rural districts. Each of these causes must be dealt with in detail later on. As an example of the first, we may notice that in London (and possibly in some of the other large towns) the monopoly of the smaller companies was to a large extent destroyed in the sixteenth century by the preponderating wealth and political influence of the greater companies. Members of the greater companies engaged in occupations hitherto restricted to the members of other and smaller companies; they were defended by the bodies to which they belonged; and the smaller companies could get no redress.<sup>142</sup> It became usual, moreover, during the same period, for apprentices on coming out of their time to become journeymen without becoming freemen either of their companies or of the city;<sup>143</sup> and thus the closeness of the old connection between the enjoyment of burgher rights and the exercise of a skilled craft tended to disappear. The constantly increasing activity of Parliament, from the beginning of the sixteenth century, in enacting laws prescribing



the methods of industry and applicable to the whole kingdom, is evident on every page of the statute book.<sup>144</sup> It was in part an effort to meet new needs, and to control,—frequently in the interest of the towns themselves,—the new manufactures of the country. But often it can only be explained as the result of the presence of a strong government, conscious of its power and influenced by an unconscious desire to extend its own sphere of action. But whatever may have been the cause, the constant interference of, and appeal to, an authority outside the town, could not fail to draw men's thoughts away from the old centre of their industrial life. Even where, as in some instances, the organization of a mystery was utilized by the government for the supervision of a particular manufacture, it was, more often than not, not with the intention of benefiting the industry of a single town, but one spread over a considerable district. Thus the statute of 1468 concerning the worsted manufacture in the Eastern Counties conferred upon the eight wardens of the craft (four from Norwich and four from outside) power to "search all manner of worsted" over the whole of the three counties, Norfolk, Suffolk, and Cambridge.<sup>145</sup> And this instance of the worsted manufacture reminds us of one of the most noticeable characteristics of that extension of industry from the towns to the country, which has been mentioned as the third of the causes of decay in the town system. From its first appearance the worsted manufacture had been confined to Norwich and the country round. So now the new woollen manufacture in the country districts did not spread itself evenly over the whole country, but, after a short period of experiment, concentrated itself in particular districts—especially the Eastern Counties, Devonshire and Somerset, and Yorkshire. The concentration went further still; for each of these districts confined itself to the manufacture of a few staple



varieties peculiar to itself. But, during the Middle Ages, the towns had not only been the seats of industry, but every town of any size had carried on the same occupations; all, in fact, that were needed to supply the ordinary wants of the townsmen and the country round. Local advantages had already led to some slight specialization;<sup>146</sup> but how slight it must have been may be readily gathered from a comparison of the lists of crafts in London, York, Coventry, Bristol, and other large towns. But during the sixteenth century two great changes took place in the one great manufacture of England,—a manufacture which soon far outweighed in importance all the rest put together.<sup>148</sup> The towns ceased to be themselves the seats of the industry; and outside the towns that geographical division of labour which is now so characteristic of Western Europe had begun to show itself on a large scale.<sup>149</sup>

iii. The final and, in some ways, most conclusive evidence of the diminishing vigour of municipal life is to be found in the general cessation of the attempt to “survey victuals;”<sup>150</sup> for there was no part of the old polity which had more firmly rooted itself in the popular sympathies. We notice, in one case, that the rule which kept *badgers*, or dealers, out of the market for grain until after the bakers and brewers of the town had been served, is no longer being enforced by the clerk of the market.<sup>151</sup> In the court leet of the thriving village of Manchester, the jury in 1559 “dothe present that they know none that doth Brewe or Bake Ale or bread, but they break the Assize.”<sup>152</sup> A similar jury at Nottingham in 1524 “beseech” Master Mayor “to be good master to hus, and see a remedy for our brewers, for we find hus grieved with them all.”<sup>153</sup> The commons of Nottingham found it was little use to have magistrates and officers to look after the tradesmen: *Quis custodiet ipsos custodes?* In 1507 they

present one of the searchers of the tanners for selling leather insufficiently barked; <sup>154</sup> in 1516 they present the searchers of the fishers "because that they suffer corrupt fish and naught to be sold in the market." <sup>155</sup> It was necessary to strike higher; and popular juries were not slow to lay the responsibility upon the mayor himself. In 1524 "M. Mayre" is presented "for lack of seeing to the syse of bread;" <sup>156</sup> in 1530, for "lack of justice done to our bakers and our butchers, and specially for brewers;" <sup>157</sup> in 1556, because he "will not see Thomas Garth's wife fined for unreasonable buying of oatmeal, for she oftentimes hath been presented," and the mayor "hath done no reformation therein"—her offence being that she had bought oatmeal and salt, and sold it again in the same market. <sup>158</sup> It is evident that the magistrates were by no means so anxious as the general body of the townsfolk that the law should be enforced. To this many motives doubtless contributed. With the general slackening of the restrictions on trade and industry, it was natural that there should also be a slackening of those which specially concerned the victualling crafts. It is possible, again, that the trade of the sixteenth century had to some extent risen above the petty extortions which had marked its first beginning; and that the municipal authorities felt they could now leave somewhat more liberty to bakers and brewers and dealers in corn, without serious harm to the public. Moreover, the government of the towns had by this time fallen into the hands of "select bodies," <sup>159</sup>—small groups of families, rich when compared with the body of the burghers, and taking but little interest in the short weight of "the poor man's loaf." But there is another cause which cannot be overlooked. When the jury at Nottingham, in 1527, remonstrated against the appointment as aldermen of a certain innholder and a certain baker, "contrary to the true effect of the statute of

victualers," and went on to point out that during the whole of the previous year, when an innholder had been mayor, "the Assize of Victual was not put in due execution,"<sup>160</sup> they were doubtless connecting cause and effect. The old system was broken down in large measure by the sheer force of individual self-interest. We shall have to examine in a later section that remarkable outburst of the spirit of self-seeking in the sixteenth century, which, however we may explain it, was so much more intense and widely prevalent than before, that it strikes us almost as the manifestation of a new economic force. Of course it was not a new force; it had always influenced men; but now it comes out into view, breaks down many of the barriers that had been set to it, and ceases to be ashamed to use its strength. It is only one side of what we now call the Individualism of the Renaissance. That individualism was both good and bad; we cannot help seeing that the good preponderated, and that the old system of restriction had done its work. But in the destruction of the old there was much that was sordid and mean; the unabashed pursuit of individual profit was ugly enough, and often hurtful enough to the poorer townsfolk; and Crowley's vigorous verse, even with all the deductions which have to be made from the judgments of a satirist, gives a not entirely untrue view of one side, at any rate, of the change that was taking place:

" . . . This is a City  
In name; but in deed  
It is a pack of people  
That seek after Meed;  
For officers and all  
Do seek their own gain,  
But for the wealth of the Common  
No man taketh pain.  
An hell without order  
I may it well eall,

Where every man is for himself,  
And no man for all." <sup>161</sup>

§ 30. It is worth while noticing before leaving this subject that the "decay" here spoken of was primarily one in the old municipal polity, and not one in material well-being. For the idea sometimes entertained that the Reformation, or the accession of Elizabeth, or any other event in the sixteenth century, found England in a languishing condition, with towns falling to ruin and industry stagnant, there is certainly no sufficient evidence. Particular localities met with disasters from time to time, such as great fires, or visitations of the plague, or of the sweating sickness, from which they took years to recover: <sup>162</sup> the great fire in Norwich, in 1507, left "many void grounds, whereupon before the fire good and substantial houses of habitation were standing," which six and twenty years afterwards are spoken of as still "unedified." <sup>163</sup> Again, the growth of trade in new directions might lead to a more rapid progress in one town than another, and a consequent change in their relative importance; thus, to illustrate once more from the same city, the development of the Atlantic trade in the second half of the sixteenth century caused the taxable wealth of Bristol to considerably surpass that of Norwich, to which it had hitherto been much inferior. <sup>164</sup> But the general impression with which we rise from the study of the period 1350-1550, is that on the whole there was a steady and constant growth of wealth in the civic communities. An impression of this kind can hardly be substantiated by statistical evidence; it is the result of a number of concurrent indications. Among these are the beginning of an *English* foreign trade, in the sense of a trade actually carried on by Englishmen outside England, and even outside the old staple

limits—the trade, namely, of the Merchant Adventurers; and closely connected with this, the growth within the towns of such mercantile misteries as the Drapers and Grocers. Both these phenomena we shall have to study in a later section. Another indication is to be found in the history of architecture; for the fifteenth and early sixteenth centuries were the period when the domestic architecture of the towns reached its highest magnificence, and that to which we owe most of the great town churches. Still another piece of evidence is furnished by the sumptuary legislation which tells of the increase of luxury and of the wider diffusion of wealth. The two sumptuary Acts of 1463 and 1482,—coming as they did after a long period during which no such enactments were deemed necessary, for the last Act had been in 1363,—are especially significant in this connection; and it may be mentioned, as not without its meaning, that from the Act of 1482 all women except the wives of labourers were exempted, and even these were permitted to wear kerchiefs worth twenty pence for the yard and a quarter—a liberal relaxation.<sup>165</sup>

Two arguments have been adduced for an actual diminution of civic prosperity. One is the practice, which became established from 1432 onward, of allowing a certain sum to be deducted from the tax known as a “fifteenth and tenth,” “in part relief and discharge of the poor towns, cities, and boroughs desolate, wasted, or destroyed, or over greatly impoverished, or else to the said tax over greatly charged.”<sup>166</sup> But the amount was not a large one; and this was no more than the reduction to a regular system of a practice, which had prevailed in an irregular and uncertain fashion before, of making an allowance from time to time to such towns as could justly claim it. Another, and at first sight more conclusive, argument is derived from a series

of statutes from 1534 to 1543, providing for the compulsory rebuilding of houses that had been permitted to fall to ruin.<sup>167</sup> In one or other of these statutes almost every town in England is mentioned by name. But if the downfall of these houses was simply due to the poverty of the citizens, we can hardly suppose that even Henry VIII. would have relied on legislation to repair the mischief, and that he would have continued to issue enactments year after year when experience must have shown the folly of the attempt.

And when we look at the Acts themselves, their interpretation does not seem far to seek. They all contain some such phrases as these: "many of" the vacant grounds "are nigh adjoining to the high street, replenished with much uncleanness and filth; with pits, cellars, and vaults lying open and uncovered, to the great peril and danger of the inhabitants and other the king's subjects passing by the same; and some houses be feeble and very likely to fall down, dangerous to pass by."<sup>168</sup> Here was a public nuisance which the local authorities were unable or unwilling to deal with in the existing state of the law, and which, it was thought, could be removed, if the self-interest of the lords of whom the lands were held as well as that of persons having rent-charges thereout, and in the last resort of the municipalities themselves, could be enlisted in the work. To interpret such statutes as implying the ruin of the towns themselves is to disregard the difference between mediæval and modern conditions. "In the tax-registers of flourishing towns" in the Middle Ages, it has been observed, "we constantly come across the entry 'decayed houses,' or 'waste lands;'" and the reason is that when a house was destroyed, it was far more difficult to replace it then than it is now. For, in the first place, the abundance of loanable capital to-day renders it much more easy to borrow money on mortgage; in the second place,

the cause of destruction, which was incomparably more effective than any other, viz. fire, is now provided against by a special form of insurance which was then altogether wanting; and in the third place, the greater aggregation of population in towns has rendered it an even better investment than it was then to build houses upon a vacant site in the heart of the town. To-day when a building in a main street is burnt down, the owner usually receives from an insurance company a capital sum with which he can at once begin to build, and he can usually find no better investment for his money.<sup>169</sup> The explanation that has just been given of the purport of the statutes is confirmed by the more detailed enactment of the same character which is to be found in the great Act of 1535 concerning Calais.<sup>170</sup> The Comptroller of Calais is empowered to call before him twice a year six carpenters and six masons, who shall be sworn diligently to search, view, and present all such houses as they shall find ruinous and likely to fall in decay; he is then to enjoin the owners to re-edify, repair, and maintain the houses within two years, and in default he is to seize them into the hands of the king. It was nothing but a rough and ready way of securing the removal of a nuisance, and it is closely connected with subsequent legislation.<sup>171</sup>

There is, however, one piece of evidence which seems to justify a gloomy view of the condition of English towns. It is a statute of 1511-12, which repeals the Act of Edward II. excluding "victuallers" from the office of mayor, on the ground that "since the making of the statute, many and the most part of all the cities, boroughs, and towns corporate be fallen in ruin and decay, and not inhabited with merchants and men of such substance as they were at the time of making the statute. For at this day the dwellers and inhabitants of the same cities and boroughs be most com-



monly bakers, brewers, vintners, fishmongers, and other victuallers, and few or none other persons of substance." <sup>172</sup> But without further proof it were hardly safe to build on the wide language of the preamble of a statute a conclusion which seems in obvious conflict with what we know of the general course of events. It is possible that some of the smaller towns had suffered in population and wealth by the growth of domestic manufactures in the rural districts; although that growth would seem to have been, in the main, not the diversion of an industry from the towns to the country, but the growth of a *new* industry outside. What, however, we do know took place was that it became much more usual towards the end of the fifteenth century for well-to-do families to build houses for themselves outside the towns. The new wealth which had been won in commerce sought, as so often since, to establish itself in the ranks of the country gentry; and the "land-grabbing," which is so notable a feature of the time, was very largely the way in which this was effected. With the restoration of order in the country districts by the strong hand of the Tudors, and the progress in the art of architecture which rendered a country residence more attractive, "every gentleman," as Starkey says, writing in the reign of Henry VIII., "flyeth into the country. Few that inhabit cities or towns; few that have any regard of them." <sup>173</sup> But the weakening of the wealthy element in the towns owing to the greater attraction of the country, is something very different from a decay of the towns owing to a languishing industry or a declining trade.



## NOTES.

1. Part i. p. 77. Recent German legal historians, especially Richard Schröder, *Lehrbuch der deutschen Rechtsgeschichte* (1889), lay much stress on the merchant-body and the market-rights they acquired as the foundations of the later civic organization. Thus Schröder declares: "Alle Städte waren in erster Reihe Märkte, nur im Marktrecht ist der Ausgangspunkt für die Entwicklung des Stadtrechts zu suchen" (p. 590). See hereon R. Sohm, *Entstehung des deutschen Städtewesens* (1890), with which may be compared the criticism by the present writer in the *English Hist. Review*, vii. (1892), 340.

2. Cf. Schmoller, *Studien über die wirthschaftliche Politik Friedrichs des Grossen*, in his *Jahrbuch*, viii. (1884), 17-22.

3. *Ricart's Kalendar*, 5.

4. *U.s.*, 16.

5. Cf. Freeman, *English Towns and Districts* (1883), 52, 70-72.

6. This is one of the main positions of Ochenkowski in his *Englands wirthschaftliche Entwicklung*. But it needs to be qualified by the conditions stated later in the text.

7. Stubbs, *Const. Hist.* (Libr. Ed.), iii. 288, 307.

8. Cunningham, *Engl. Ind.* (2nd ed.), i. 335, would seem to seriously antedate "the decay of local institutions."

9. Stubbs, *u.s.*, iii. 644.

10. Schmoller, *u.s.*, 21.

11. These figures are based upon the estimates in *Archæologia*, vii. and xx., derived from the Subsidy Roll of 1377, and copied in Macpherson, i. 583. In reaction against the exaggerated estimates which have long been current, based upon the vague statements of chronicles, there is a tendency with some modern German writers to minimize the population of mediæval cities (Jastrow, *Volkszahl deutscher Städte*, 4); a tendency which, in the opinion of Hoeniger, in Schmoller's *Jahrbuch*, xv. 128, 129, has gone too far. A list of references to estimates for English towns will be found in Gross, *Gild Merchant*, i. 73 and xviii.

12. See instances in Gross, *Gild Merchant*, i. 8 and n. 2, 43.

13. If we follow Schröder and Sohm (see n. 1, *supra*), we must regard the trading privileges as even more important in municipal development, and forming the kernel of their later constitution. Sohm goes so far as to say, "The constitution of the town as such was a market constitution" (p. 91).

14. *Trans. Brist. and Glouc. Archæol. Soc.*, ix. 332.

15. Cooper, *Annals of Cambridge*, ii. 2. "At a Common Day held on Friday after the Assumption V.M., it was agreed by all the Commoners there assembled 'that all the free burgesses of this town that now be, or hereafter shall be, shall be brethren of the Guyld Merchaunt within this town.'"

16. Gross, *Gild Merchant*, i. ch. ix.

17. *Ib.*, i. 43, 44.

18. Cf. the statement of these last two points as the "allgemeine Rechtsgrundsatz," by Schmoller, *Tucher- und Weberzunft*, 388.

19. *Statutes of the Realm*, i. 270, 315.

20. Cf. Ochenkowski, 227, 228, 230; and the remarks of Schanz, *Englische Handelspolitik*, i. 432, on the "one-sidedness" of the Edwardian policy.

21. The petitions may be readily referred to in Cotton's *Abridgement*, 117, 125, 147, *et al.*

22. The Act of 1378 (2 Richard II., st. 1, c. 1, in *Statutes*, ii. 7) was a compromise. Foreigners were allowed to sell in wholesale quantities to all persons, including other foreigners; and they were permitted to sell by retail, but only small wares. Cunningham, *Engl. Industry* (2nd ed.), ii. 351, accordingly, needs correction.

23. For the exemption of foreign merchants from English taxation, see Madox, *Firma Burgi*, 273-277.

24. "Forasmuch as it seemeth to our Lord the King that the said statutes (9 Edw. III., st. 1, c. i.; 25 Edw. III., st. 3, c. 7; 2 Richard II., c. 7), if they shall be fully holden and executed, shall extend to the great Hindrance and Damage, as well of the City of London as of other Cities, Boroughs, and Towns of the Realm; It is ordained and assented that no Merchant Stranger Alien shall buy, nor sell, nor merchandise within the Realm with another strange Merchant Alien *to sell again*; nor that no strange Merchant Alien shall sell at retail within the same Realm; nor shall put to sale any Manner of Wares or Merchandises, except Livings (provisions) and Victuals," 16 Richard II., c. i. (1392-3), *St. of R.*, ii. 83.

25. Thus the order that "all wares sold or bartered between foreigner and foreigner shall be forfeit as *foreign bought and foreign sold*—felts and yarn only excepted," was repeated at Liverpool as late as 1565. Pieton, *Selection from Liv. Archives*, 75.

26. 5 Hen. IV. (1403-4), c. 9; *Statutes*, ii. 145.

27. Drake's *Eboracum* (1736), 206 (Charter of Richard II.); 214 (Proclamation of 1550 against "Foreign Buying and Selling"); *ib.* (Ordinance of Quarter Sessions).

28. 7 Hen. IV. (1405-6), c. 9; *St.*, ii. 153.

29. See the regulations of Blackwell Hall in Riley, *Memorials of London*, 550.

30. *Political Poems* (ed. Wright, Rolls' Series), ii. 178.

31. 5 Hen. IV., c. 9; *St.*, ii. 146.

32. 4 Hen. V., e. 5; *St.*, ii. 197.

33. See Schanz, i. 407, and the references there given. Schanz's chapter on "Fremdenrecht" will be found very useful, although the author hardly succeeds in giving a clear picture of the course of events.

34. 18 Hen. VI., c. 4; *St.*, ii. 303.

35. Ochenkowski, 237-239; Schanz, i. 413, 416-421.

36. See e.g. Herbert, *Livery Companies*, i. 203.

37. Cf. Charter of James III. to Edinburgh, 1477, in Maitland, *Hist. of Edinb.*, 8.

38. *Memorials*, 220, 221, 405.

39. Stow (ed. Morley), 171, 173.

40. *Memorials*, 550, 551. Cf. Davies, *Southampton*, 275.

41. A detailed list of the seats of the various London industries will be found in Stow (ed. Morley), 107. Shops in the "Stockfishmonger-row" and in the "Goldsmithery" of London are mentioned in Sharpe, *Wills in the Court of Husting*, ii. 198, 213; other instances are in the *Bury Wills* (Camden Soc.), 232. It has been argued that the residence of men of the same occupation side by side tended to promote competition. Whether this were the case or no, it would certainly make combination against the public easier; and from what we know of the mediæval craftsmen, this would seem the likelier result. Bodin, in the sixteenth century, for this very reason, advocates the scattering of the artisans. The passage in his *Republic*, bk. iii. ch. viii., is thus presented in the translation by Knolles in 1606: "We said that the citizens of one and the same trade or occupation were not in one street or quarter of the city to be together placed, except they were by the straightness of the places or the opportunity of the waters they were to use thereto enforced; as butchers, curriers, fellmongers, bathkeepers. . . . So are also armourers and smiths to be placed apart by themselves from scholars and students. As for other handicraftsmen, merchants and tradesmen, it is good to have them separated one from another, and to be divided into every part of the city, so that the citizens may more commodiously use their help in general, and not in time of danger be enforced oftentimes to run from the furthest part of the city to the furthest. Whereunto is to be joined that citizens of the same occupation or trade, divided into divers parts of the city, cannot so easily conspire against the common good, or delude the laws, as if they dwell together."

42. *Records of Nottingham*, iii. 62.

43. *Ib.*, 73, 78. Drake's *Eboracum*, 213.

44. *E.g.* the London regulation "that no one shall buy corn, malt, or salt, for resale, which has come by water for sale, before that the same shall have remained openly in full market for three market-days," which appears twice in Riley's trans. of the *Liber Albus*, 606.

45. There are frequent examples in the *Memorials*. The regulation of 1345 (p. 221) puts the object very clearly: "All foreign poulterers bringing poultry to the city shall take it to the Leaden Hall, and sell it there, between Matins and . . . Prime, to the reputable men of the city and their servants for their own eating; and after the hour of Prime, the rest of their poultry that might remain unsold they might sell to cooks, regratresses, and such other persons as they might please." See also *Liber Albus*, trans. Riley, 601. Cf. Maitland, *Edinburgh*, 14. This is still the rule in the markets of towns in Ontario.

46. *Records of Oxford* (s.a. 1535), 133; Wodderspoon's *Ipswich*, 285.

47. 8 Hen. VI., c. 5; *St.*, ii. 241.

48. According to Riley, in *Memorials*, 26, n.

49. *Liber Albus*, trans. Riley, 124.

50. Stow (ed. Morley), 172.

51. The history of these several weighing-places is not free from obscurity. Some material may be found in Herbert, *Livery Companies*, i. 307, 309; Stowe, 172; *Liber Albus*, trans. Riley, 128, 136, 141, 152, 199, 215-216; *Memorials*, 26; Sharpe, *Wills*, ii. 635, n.; Heath, *Grocers' Company*, 59 n., 184.

52. *Ricart's Kalendar*, 74; Clode, *Merchant Taylors' Company*, 23.

53. Gross, *Gild Merchant*, i. 142.

54. *Ib.*, 145; cf. the usage at Waterford, 146, n. 4.

55. *Ricart's Kalendar*, 74, 76.

56. *Records of Nottingham*, i. 286; iv. Intro., xix.; Davies, *Southampton*, 219; Hall, *Customs*, i. 33, 34.

57. See the review by the present writer of Gross's *Gild Merchant* in the *Political Science Quarterly* (New York) for Sept., 1891.

58. Gross, *Gild Merchant*, 111, 112, 124, 126; *Records of Oxford*, 205; Oehenkowski, 64.

59. Maurer, *Geschichte der Städteverfassung*, iii. 725.

60. See pt. i. 87, seq.

61. What Schmoller says of the civic regulations of the fifteenth century in Strasburg is substantially true of the larger English cities—"Die Zünfte, die sich, trotz ihrer politischen u. verwaltungsrechtlichen Functionen im 14. Jahrhundert vielfach mehr wie Privatvereine oder

politische Parteiklubs gefühlt, . . . wurden damit wahre Korporationen des öffentlichen Rechts, Selbstverwaltungskörper der Stadt, dienende Glieder eines grösseren Gemeinwesens, dessen Grundgedanken jedes einzelne Glied sich harmonisch fügte."—*Tucher- und Weberzunft*, 486, 487.

62. Ashley, *Woollen Industry*, 24.

63. Cf. n. 61 above, and Gierke, *Genossenschaftsrecht*, i. 371, seq.

64. *Ricart's Kalendar*, 77, 78.

65. List of Statutes in Ochenkowski, 82, n. 2. Cf. charter of Henry IV. to Nottingham, 1399, in *Records*, ii. 8; and charter of Richard II. to York—"That the mayor and twelve aldermen of our city, and their successors; or four, three, or two of them with the said mayor, have full correction, punishing, hearing, and determining all things and matters, as well of all manner of felonies, trespasses, misprisons, and extortions, as of all other causes and quarrels whatsoever happening within the city."—Drake's *Eboracum*, 206.

66. Stowe, quoted in Sharpe, *Wills*, ii. 649 n.

67. *Liber Albus*, trans. Riley, 451; *Ricart's Kalendar*, 77, 78.

68. *Ricart's Kalendar*, 102, 103; Drake's *Eboracum*, 187. The character of the control exercised by the municipal officers is further illustrated by the series of letters from the mayor and aldermen of London to the like authorities in other towns, requesting them to assist in sending back runaway apprentices. See Sharpe, *Calendar of Letters*, 1350-1370. A case where a runaway apprentice came to an agreement with his master before the bailiff and jurats of Lydd, in 1458, is mentioned in *Hist. MSS. Com.*, v. 528a.

69. *Piers Plowman*, ed. Skeat, Text c., iv. 107.

70. Ochenkowski, 83.

71. Levasseur, *Histoire des classes ouvrières*, i. 213-216, 219.

72. *Supra*, pt. i. 85, 86.

73. Toulmin Smith, *English Gilds*, xl. 55, 98, 101, 115.

74. Herbert, *Livery Companies*, i. 50, 430; Clode, *Early History of the Merchant Taylors*, 208.

75. According to the contemporary account of the Common Clerk of the Taylors, the Act of 19 Hen. VII., c. 7, was intended to put an end to this control of the companies over the litigation of their members. If this were the object, the Act was hardly successful. According to the Clerk, the Act was obtained by the City Recorder in order to give more business to the lawyers. He perceived, we are told, that the "discreet justice" that was "ministered among fellowships" "grew to the prejudice of the learned men of the city."—Clode, *u.s.*, 40.

76. Clode, 134-136.

77. Drake, *Eboracum*, 215.

78. *Ib.*, 224. The capitals in this and other passages do not appear in the edition of 1736, but in a later edition from which the quotations were originally copied.

79. J. Mackintosh, *Hist. of Civilization in Scotland* (2nd ed.), i. 403; Cosmo Innes, Preface to *Ancient Laws and Customs of the Burghs of Scotland*, p. xxxvii.

80. "Rex Vicecomiti Ebor. salutem. Indicaverunt nobis telarii nostri de Ebor. quod cum assignati sint ad telas faciendas libertatem habeant per certam Henrici Regis avi nostri quod nullus in Comitatu Ebor. telam aliquam faciat extra Civitatem nostram Ebor., quidam telarii per Bailliam tuam sine assensu telariorum Ebor. telas faciunt in pluribus locis non debitis, ita quod ipsi telarii de Ebor. redditum nostrum annum nobis reddere non possunt. Et ideo tibi precipimus quod sine dilatione clamari facias per Bailliam tuam quod nullus sit qui officium telariae exerceat in Ballia tua extra Civitatem nostram Ebor. sine assensu et voluntate predictorum telariorum nostrorum Ebor." 4 Hen. III. *Rotuli Litterarum Clausarum* (1833), i. 421. While in the case of York the monopoly was apparently of all kinds of cloth, and covered the whole county, at Nottingham the prohibition applied merely to dyed cloths, and extended only to ten leagues from the town. In 1494 the two Guardians of the Fraternity of the Weavers of Nottingham brought an action against a weaver of Bunney, a village six and a half miles from Nottingham.—*Records of Nottingham*, iii. 26.

81. Cf. the definition of "Handwerksunternehmung," in Schmoller, *Geschichtliche Entwicklung der Unternehmung*, in his *Jahrbuch*, xiv. (1890), 1047.

82. *Liber Albus*, trans. Riley, 311, 312; *Ricart's Kalendar*, 83. In Scotland the aletasters were, it would appear, sometimes weak enough to go themselves into the alehouse and 'fill their bellies,' instead of standing in a dignified way in the middle of the street in front of the house and sending in the beadle and one of their number to choose a pot 'for their discernment thereon;' Mackintosh, i. 399. John Shakespeare, the father of the poet, and Richard Cobden were both—under very different conditions—aletasters.

83. Wodderspoon's *Ipswich*, 285.

84. 12 Edw. II. (the statute of York), c. 6; *St.*, i. 177.

85. Thus in the Bailiff's oath at Carlisle: "Ye shall see that all maner of vitelles eumyng to this market be gud and holesome and sold at a resonable price," from the *Dormont Book* of 1561, in Ferguson and Nanson, *Records of Carlisle*, 48. Cf. Davies, *Southampton*, 169.

86. Wodderspoon, 96. Cf. for Germany, Janssen, *Gesch. des deutschen Volkes* (last ed.), i. 359.
87. E.g. charters of Hen. III. and Rich. II. to York. *Eboracum*, 205, 206.
88. 23 Edw. III., c. 6; *St.*, i. 308.
89. 12 Edw. IV., c. 8; *St.*, ii. 442.
90. E.g. *Liber Albus*, trans. Riley, 302-314, 323-334, 597-621.
91. E.g. *Records of Nottingham*, iii. 356.
92. *Liber Albus*, trans. Riley, 124, 126, 134, 139, 147, 312, 313, 326, 599, and elsewhere.
93. *Records of Nottingham*, iii. 327.
94. E.g. *Records of Oxford*, 107, 120.
95. *Ricart's Kalendar*, 83; *Rec. of Oxford*, 212; Davies, *Southampton*, 270.
96. Schmoller, *Tucher- und Weberzunft*, 378-380.
97. *Piers Plowman*, ed. Skeat (Text A), iii. 67.
98. This is abundantly illustrated by the sixteenth-century entries in the Nottingham books.
99. *Liber Albus*, trans. Riley, 310.
100. Drake's *Eboracum*, 190.
101. Schmoller, *Gesch. der nationalökonom. Ansichten*, 90-93.
102. Fuller, quoted by Herbert, *Liv. Comp.*, i. 132.
103. Stowe (ed. Morley), 171.
104. For the prices of that year see Rogers, *Hist of Agric.*, iv. 252, 286.
105. Stowe, 174.
106. This is all explained in detail in Herbert, i.
107. Cf. what Stow says of the surveyors in 1528, 174.
108. Pauli, *Drei volkswirtschaftliche Denkschriften*, 73.
109. Herbert, i. 138.
110. *Ib.*, 144, 145.
111. Order of 1573. *Ib.*, 141.
112. Stowe (ed. Morley), 379.
113. *Ib.* The house and mills are clearly shown in a drawing, of unknown date but certainly between 1584 and 1632, in the Pepys Collection at Magd. Coll., Cambridge. This has been admirably facsimiled for the New Shakesp. Soc., and the facsimile issued with the supplement to Harrison's *England*, 1881. In 1578 a new plan was introduced: every company provided its own quota, and stored it in a space assigned to the company in the Bridge House. This system was retained until 1596. From 1596 to 1666, when the plan of storing corn was finally abandoned, the companies were permitted to store it in their own halls.



114. Besides Bristol and Gloucester here especially referred to, the same practice seems to be indicated at Plymouth by the following entry, *s.a.* 1596-97, "Received . . . for monies gayned uppon sale of Corne this yere, cl *li.*," quoted in Gross, ii. 136, n. 1. Norwich also purchased rye from Danzig in 1595, according to Blomefield, quoted in Eden, i. 134; and apparently Ipswich also, Wodderspoon, 292.

115. *Ricart's Kalendar*, 49.

116. 1532, *ib.* 52; 1594, 62; 1596, 63.

117. *Ib.* 63. For Bristol, in 1596, see also Eden, i. 134 n.

118. Strype, quoted by Herbert, i. 134 n. For prices in that year, Rogers, v. 176, 268.

119. *Ricart*, 52.

120. Gross, i. 135, 136; 208, and n. 7; Picton *Liverpool Municipal Records*, 80, seq.

121. Dr. Gross, to whom it is due that attention has lately been called to those common bargains, had not noticed the rivalry between Liverpool and Chester, from which it is clear that Chester was carrying on the same practice. Thus one of the Liverpool entries begins, "Because the men of Chester, as appeareth by a letter missive sent from the mayor of the said city of Chester, have bargained and bought," etc.

122. *Supra*, pt. i. p. 75.

123. Picton, *u.s.*, 81 (twice).

124. Cf. the practice in Neath, Gross, ii. 176.

125. Burrows, *Cinque Ports*, 219. New Romney had a ship or bargo for foreign service, and occasionally earned money by freightage. The sense of corporate ownership is illustrated by the entry that Reginald Willes was put upon his good behaviour (1405) for having sold an oar belonging to the commonalty, and taken possession of the common boat against the will of the jurats.—*Hist. MSS. Com.*, v. 535a, 536.

126. *E.g.* Oxford. Ordinance of 1534: "It ys ordeyned, enacted, and decerbed by the said Mair, Aldermen, Baylyffs, and Comyns of the Town aforeseyd at the seyde Comyn Councell assembled, and by autorite of the same, that every Inhabitaunt and Inhabitaunts wythyn the seid Town and subbarbs of the same, of whatsoever astate, degree or condicon he or they be, occapying any mete of whete or rye, mascelyn, benes and pesen, for their bredd or their horsebred . . . shall bryng or cause to be brought all their seid whete . . . to the Kyngs mylles belongyng to the foreseyd Town and to non other place, there to be ground for a reasonable and lauffull toll," on pain of fine, for every week of refusal, of 20s.; one moiety to the King and one to the Mayor and Commonalty, "toward the payment of their ffeferme for the mylls aforeseid."—*Oxford Records*, 121. For a



further account of the Castle Mills at Oxford and of the litigation in 1606 between the city and Merten College over the use of the Holywell mill, see Rogers in *Oxford City Documents*, 283. Cf. also Wodderspoon's *Ipswich*, 283.

127. Eden, *State of the Poor*, i. 21 n.; Wodderspoon's *Ipswich*, 284; and see *supra*, pt. i. 62, n. 103. Another example of communal property is given by the Town Lime-kiln at Hull; Lambert's *Two Thousand Years of Gild Life*, 274.

128. Davies, *Southampton*, 51, 52.

128a. The Lammas lands of Colchester a century ago were said to contain 500 acres, independently of Mile End Heath, over which the freemen had the right of commonage all the year round; Cutts' *Colchester*, 142.

129. *Records*, 309, 327. The Oxford entries illustrate some other interesting points. Thus it appears from them that there was a dispute between the Oxford freemen and the men of the neighbouring villages: "this ordre to stande condyeyonally, yf. Bynsey and Wulvercott mayo be brought to some reasonable order by ye consent of this howse," p. 307. And there was already a danger lest common rights should fall into a few hands, for the order of 1569 (afterwards erased) added "that no freman gett into his handes above too mens commens," p. 327.

130. For pasture masters, Drake's *York*, ii. 38 (8vo ed. in 3 vols.), cf. *Oxford Records*, 211; for herdman, *Oxford*, 278-281. In the little town of Lydd a *town-flock* was formed in 1574; probably, like the flocks in many villages, to furnish a revenue for the relief of the poor.—*Hist. MSS. Com.*, v. 531b.

131. *Records*, iv. 170.

132. See the Introduction by Sharpe to the *Register of Wills in Court of Husting*, privately printed by the Corporation.

133. See the *Notes of Bristol Wills* in the *Great Orphan Book*, by T. P. Wadley, *Bristol and Glou. Arch. Soc.*, 1882, seq.; and the notice of the Court for Orphans in Drake's *Eboracum*, 198.

134. Wodderspoon, 268, 273. Cf. with the Ipswich procedure that in Dublin, *Calendar*, 491. In the little town of Fordwich (a member of Sandwich) the mayor had the right of administering to the estates of intestates.—*Hist. MSS. Com.*, v. 607.

135. *Ricart*, 62.

136. Freeman's *Exeter*, 154.

137. *Ricart*, 76.

138. Gross, ii. 174, 182. The statement in the text seems more accurate than Gross's own account, i. 44.

139. Gross, ii. 256.
140. *Hist. MSS. Com.*, xi. pt. iii. 7.
141. *Nottingham Records*, ii. 348, 362; iii. 307. Cf. arrangement between Cambridge and Northampton in Cooper, *Annals of Cambridge*, i. 302 (1519).
142. Clode, *Early Hist. of Merchant Taylors*, i. 204, seq.
143. That seems the interpretation to be put on the account, *ib.*, 217.
144. See list in Ochenkowski, 91, and cf. 131. An interesting example is the series of acts empowering what we should now call a Royal Commission (or, perhaps, more strictly a Committee of the Privy Council) to fix the price of wines, although the enforcement of the assize was left to the borough officers.—28 Hen. VIII., c. 15 (1536); 34-35 Hen. VIII., c. 7 (1542-3); 37 Hen. VIII., c. 23, §§ 2, 3; in *St.*, iii. 670, 905, 1015.
145. 7 Edw. IV., e. 1; *St.*, ii. 418.
146. See the list of towns and their characteristics from "a lawyer's handy-book of the thirteenth century" in Th. Rogers, *Six Centuries of Work and Wages*, 105.
147. Cf., for instance, the lists of London crafts in Herbert, *Livery Companies*, i., with those in Miss Toulmin Smith's *York Plays*.
148. Toynbee, *Industrial Revolution*, 46.
149. The general character of the change is admirably pointed out by Schmoller. "Es vollzog sich in den einzelnen Ländern eine geographische Arbeits theilung, welche die alte All-, und Vielseitigkeit der städtischen Industrie aufhob; nach Gegenden und Städten grupperte sich hier die Tuchmacherei, dort die Linnenindustrie, hier die Gerberei, dort die Metallverarbeitung," in *Studien über die Politik Friedrichs*, in his *Jahrbuch*, viii. 41.
150. Cf. Harrison, bk. ii. ch. 6.
151. *Records of Nottingham*, iii. 364.
152. *Court Leet Records*, ed. Earwaker, i. 50.
153. *Records*, iii. 357.
154. *Ib.*, 327.
155. *Ib.*, 345.
156. *Ib.*, 357.
157. *Ib.*, 365.
158. *Ib.*, iv. 113.
159. See the paper by Colby on *The Growth of Oligarchy in English Towns* in the *English Hist. Rev.*, v. (1890), 633; where, however, the distinction between earlier and later oligarchie periods is, perhaps, insufficiently observed.
160. *Nottingham Records*, iii. 358. The jury would seem to have been

ignorant that the statute of victuallers to which they referred had been repealed in 1512; see p. 53, and n. 172 below.

161. *Select Works of Robert Crowley*, E.E.T.S. (1872), p. 10. Crowley adds the side-note, "Look the definition of a city, you that be learned." He is evidently thinking of Aristotle's city-state.

162. Rogers, *Hist. of Agric.*, iv. 102.

163. 26 Hen. VIII., c. 8; *St.*, iii. 504.

164. Cf. Rogers, *u.s.*, 84.

165. 37 Edw. III., cc. 8-14 (*St.*, i. 380, 381); 3 Edw. IV., c. 5 (*St.*, ii. 399); 22 Edw. IV., c. 1 (*St.*, ii. 468). On sumptuary legislation, see Knight's *Pictorial Hist.*, 273.

166. Schanz, i. 464; Dowell, *Hist. of Taxation*, i. 111, seq.

167. 26 Hen. VIII., c. 9 (*St.*, iii. 505; decayed houses and consequent damage by sea, and not as Rogers puts it in *Hist. of Agric.*, iv. 107); 27 Hen. VIII., c. 1 (*St.*, iii. 531); 27 Hen. VIII., c. 63 (*St.*, iii. 645); 32 Hen. VIII., cc. 18, 19 (*St.*, iii. 768, 769); 33 Hen. VIII., c. 36 (*St.*, iii. 875); 35 Hen. VIII., c. 4 (*St.*, iii. 959).

168. *St.*, iii. 761.

169. Jastrow, 60, seq.

170. *St.*, iii. 645.

171. See Gneist, *Self-Government*, under "Removal of Nuisances."

172. 3 Hen. VIII., c. 8; *St.*, iii. 30. The statute provided that when the mayor was a victualler, two honest and discreet persons not being victuallers should be chosen to assist him in "setting the prices" of victuals there. Probably in many towns an effort was made by municipal ordinance to enforce as much as possible of the old rule. Thus at Oxford, in 1536, it was agreed by the Council that if any victualler, "as baker or bocher," became mayor, he should not "occupy hys occupacion" during the year. But in 1538 the rule was relaxed. If a man occupied two "vyttelyng crafts" he must leave one during his year of office; except bakers, who, as specially needing to be watched, were altogether excluded from office unless they left "the occupacion, craft, or mystery of bakers for the time of the mayoralty.—*Records*, 139, 150.

173. *England in the Reign of Henry VIII.*, ed. Cooper, E.E.T.S. (1878), 93.

## CHAPTER II.

### THE CRAFTS.

[AUTHORITIES.—Most of the works previously cited among the authorities for general town history are of use for this subject. But the works of most value are as follows. Of collections of original documents or works making large quotations from them, there are for London, the *Memorials of London*, transl. Riley (1868); and the *Liber Albus* and *Liber Custumarum* in *Munimenta Gildhallæ* (Rolls' Series, 1859-60), the former also transl. by Riley (1861). There are also several accounts of particular London companies, such as C. M. Clode, *Memorials of the Merchant Taylors' Company* (1875), and *Early History of the Merchant Taylors' Company* (1888); E. B. Jupp, *Account of the . . . Company of Carpenters* (1848; 2nd ed., with a supplement by W. W. Pocock, 1887); J. Nicholl, *Account of the . . . Ironmongers* (1866); W. H. Black, *Account of the . . . Leathersellers* (1871); W. M. Williams, *Annals of the . . . Founders* (1867); J. B. Heath, *Grocers* (1829); J. F. Firth, *Coopers* (1848); J. F. Wadmore, *Skinner's*, and E. C. Robins, *Dyers*, both in *Trans. Lond. and Middlesex Archæol. Soc.*, v. (1881); T. Milbourn, *Vintners* (1888); and the ordinances of the *Glovers, Blacksmiths, Shearmen, and Waterbearers*, printed by H. C. Coote in *Ordinances of some Secular Guilds*, *Trans. Lond. and Middlesex Archæol. Soc.*, iv. (1871). Of these works the six first mentioned are the most rich in material. But of all the modern works by far the most valuable and magnificent is the *Copies in Facsimile of MS. Records*, with transcriptions and translations, prepared by the *Grocers' Company* in 1883. It is a pity that the company did not carry its enlightened policy one step further, and make the facsimiles more generally accessible to historical students, by allowing a number of copies to be placed on the market. For the *Twelve Great Livery Companies*, the work of William Herbert (1834), abounding as it does in

mistakes, is still indispensable; while for most of the lesser companies, the student can only go to the controversial pages of the *Report of H. M. Livery Companies' Commission* (1884). For the crafts outside London the accessible printed material is very scanty. Perhaps the only considerable provincial company whose history has been examined with care is that of the *Merchant Taylors of Bristol*, by F. F. Fox (1880). Unfortunately, like many other books on gild history, this was printed only in a very small edition for private circulation. Toulmin Smith's collection in *English Gilds* (E.E.T.S., 1870) contains the ordinances of a few religious fraternities of craftsmen; and many fraternity and craft statutes are epitomized in the uncritical but useful book of Cornelius Walford on *Gilds* (1888). The employment of the Searchers of the crafts of masons and wrights to report as to encroachments in York is illustrated by the documents printed in *English Miscellanies*, Surtees Soc. (1888), and the history of the bakers of the same city has been enriched by the publication of their *Ordinary*, by Miss Toulmin Smith, in the *Archæol. Review*, i. (1888). Much that is useful for the fifteenth and sixteenth centuries will be found in J. M. Lambert's *Two Thousand Years of Gild Life* [in Hull] (1891); and some particulars as to Shrewsbury may be gleaned from Hibbert, *Influence, etc., of English Gilds* (1891). But of all the original authorities none are more important in England, especially for the sixteenth century, than the *Statutes of the Realm*, the study of which has been somewhat neglected. The only satisfactory edition for scientific purposes is that of the Record Commission (1810-1822). English conditions may be compared with those of Scotland, as found in Wm. Maitland, *Hist. of Edinburgh* (1753), and Alex. Bain, *Merchant and Craft Guilds* [of Aberdeen] (1887).

As to general treatises, besides those of Brentano and Oehenkowski, the student should consult the *Gild Merchant* of C. Gross (Oxford, 1890), which has much incidental reference to the crafts; and an admirable article by Stahlshmidt, *Notes from an Old City Account Book* in the *Archæol. Journal*, xlii. (1886). For the relations of apprentices to their masters, Sharpe's *Calendar of Letters*, 1350-1370 (1885), should be consulted. A roseate picture of the London companies towards the end of the fourteenth century is given in *Sir Richard Whittington*, by Besant and Rice (1881). On Chantries, much information will be found in collections of wills, such as Sharpe's *Calendar of Wills, Court of Husting, London*, printed (1890) by order of the Corporation, and in the *Bury Wills*, ed. Tymms, Camden Soc. (1850); and for their dissolution, in the *Chantry Certificates*, printed by Maclean in *Trans. Bristol and Glo. Archæol. Soc.*, viii.; the *Survey and Rental* for Somerset, ed. E. Green for the Somerset

Record Society (1888), and the narrative in the Church historians, Fuller and Burnet. For village gilds, the most useful material will be found in Weaver's *Wells Wills* (1890). Much light is thrown on English conditions by those on the Continent; Fagniez, *Études sur l'Industrie à Paris au xiii<sup>e</sup> et au xiv<sup>e</sup> Siècle* (1877), and the first two volumes of Levasseur, *Histoire des Classes Ouvrières* (1859), are of extreme interest. A popular presentation of their results will be found in Mad. Darmesteter's article on *The Workmen of Paris*, in the *Fortnightly Review*, July, 1890. In Germany, a careful study of the Journeymen's societies has been made by Schanz, *Gesellenverbände* (1877); and Geering has sketched the history of the Zünfte of an important city in his *Handel und Industrie der Stadt Basel* (1886).

A synopsis of the main results of German research up to 1868 will be found in the first volume of Gierke, *Das deutsche Genossenschaftsrecht*. But of all modern writing on the mediæval craft system, that which is based on the widest perception of contemporary political and social conditions, and brought most accurately into relation to earlier and later development, is that of Schmoller, and his *Strassburg zur Zeit der Zunftkämpfe* (1875), and still more his *Strassburger Tucher- und Weberzunft* (1879), will be found extremely suggestive and stimulating.]

§ 31. IN previous sections we have traced the development of craft organizations into the second half of the fourteenth century [§§ 8-11], and we have looked at the position they occupied in the town life of the following period [§ 26]. It remains now to follow their internal and external history from the middle of the reign of Edward III. down to the accession of Elizabeth, and to examine more closely than was before possible their varying relations to the commercial and industrial activity of the time. In looking at the general characteristics of town life, it was convenient to occupy what is called a "static" point of view; to picture to ourselves the craft organizations as having reached a certain fixity; and to describe what might be regarded as the normal relations between these smaller communities and the greater community of the town which enclosed them and was composed of them. This procedure is not only

useful for purposes of exposition; it largely corresponds to the real facts of the situation: for, as we shall see, the organization of industry and its counterpart in civic constitutions did enter, about the beginning of the fifteenth century, into a period of comparative stability and permanence, which lasted for more than a hundred years. But still the forces of change were never altogether quiescent; and now it will be advisable to place ourselves in a "dynamic" point of view; to regard the crafts as bodies undergoing growth, consolidation, and decay; as modifying their character as time went on; as undergoing a process of internal differentiation; and moving with a moving environment.

We may so far anticipate the results of this and the following chapter as to lay down that for most of the industries of England, the period is marked, not by the transition from one form of organization to another, but by the consolidation of the form already established, and its extension to new branches of manufacture as they arose. That form is what is generally known as "the gild system;" and the term is satisfactory enough if it is understood to imply relations,—between various ranks of producers and between producers and consumers,—such as economic historians usually describe under that name. It has a further justification as indicating that between the companies of the fifteenth century, and the earlier associations which called themselves "gilds," there was a close likeness, and in many cases an actual continuity. But the exclusive use of the term "gild system" has some disadvantages. It tends to fix attention on names instead of things; to suggest that the thing could not exist without that particular name;<sup>1</sup> and to lead to the supposition that when the name had disappeared, as after the Reformation, the thing had gone likewise. But



the word "gild" is not one which appears very prominently in English industrial history after the thirteenth century. The earlier voluntary associations of craftsmen had, indeed, come into existence under that name, and some of them retained it in their official designations down to the sixteenth century;<sup>2</sup> but by far the more usual terms for the body of persons engaged in any particular branch of manufacture or trade,—not only as a group of individuals, but as an organized body,—were *mistry*,<sup>3</sup> and *craft*; the term *art* is also not infrequent.<sup>4</sup> After they had obtained legal incorporation, each is usually described in official documents as "the master, wardens, and fellowship of" such and such a "craft" or "mistry;"<sup>5</sup> and they came to be spoken of, as early as the beginning of the sixteenth century, as "bodies corporate," or "corporations:" this latter is the term Adam Smith usually employs in criticizing them.<sup>6</sup> Long before the Reformation, the term *gild* had come to be associated in the popular mind with religious fraternities rather than with craft societies; and the term *company*, which some writers have supposed to distinguish post-Reformation creations from pre-Reformation gilds, was in general use long before that event.<sup>7</sup>

In the present chapter, therefore, it will be well to use *craft* or *mistry* in reference to the several bodies; although when the organization of industry as a whole is being considered it will still be convenient to use the term "gild system," which modern economic literature has allotted for the purpose.

The work of the period before us is, then, to a very large extent, the consolidation of the gild system and its extension to new industries as they arose.<sup>8</sup> So thoroughly was this work done that, as no economic forces appeared, in the shape either of new processes or of an enlarged demand, strong



enough to sweep it away, it remained in its general features intact far into succeeding centuries. It did not disappear when a national organization was created under the Tudors and Stuarts; it was merely modified and put under control, and then incorporated as a part of the new fabric.

But while this is true of most of the industries, and of a very considerable part of the industrial life of the country, it is not true of all. It is not true of the one great industry which rose during this period until it became the chief source of England's wealth,—the cloth manufacture; neither is it true, probably, of the other, though incomparably smaller, textile industries, those of silk and linen. In the manufacture of cloth, the period witnessed an enormous increase of production, and the creation of a flourishing foreign trade—the two acting and reacting upon one another; and, as a cause and consequence of both, the growth of a new industrial organization, at first obscure, and then rapid and clearly marked. While on the one side, then, we have the consolidation of the gild system, on the other we have its supersession by what is known as “the domestic system.” It is this which makes the phenomena of the period so complex, and creates what at first sight seem so many cross-currents. In the following sections, an attempt will be made to disentangle the threads,—if the change of metaphor may be allowed,—and to dwell rather on those parts of industrial life in which no revolution took place, and in which the history is one of development along lines already laid down. Such a sharp division of the subject-matter may give an exaggerated impression of contrast, but may be of provisional use as an assistance to clearness of thought.

§ 32. Nothing is more noticeable than the rapidity with which, in London, and other large towns, the gild organiza-

tion was extended to every branch of industry and trade at the end of the fourteenth and the early part of the fifteenth century, and somewhat later in the less important towns. The primary purpose which the authorities and the craftsmen themselves had in view was to bring about such a supervision of wares as should secure the observance of generally accepted standards of good work. It was felt to be necessary that in each craft there should be persons definitely set apart to carry out an adequate "search," and vested by Parliament, or the civic magistrates, with the necessary authority. For this object it was enacted by Parliament, in 1363, that "two of every craft shall be chosen to survey that none use other craft than the same which he has chosen."<sup>10</sup> The policy is more clearly defined in a royal order addressed to London, and probably assignable to the concluding years of Edward III.'s reign: "It is ordained that all the misteries of the city of London shall be lawfully regulated and governed, each according to its nature in due manner, that so no knavery, false workmanship, or deceit shall be found in any manner in the said misteries; for the honour of the good folks of the said misteries, and for the common profit of the people. And in each mistery there shall be chosen and sworn four or six, or more or less, according as the mistery shall need; which persons so chosen and sworn shall have full power from the mayor well and lawfully to do and to perform the same."<sup>11</sup> With these enactments we may compare the precisely similar Scotch legislation in 1424: "It is ordainit that in ilk town of ye realm, of ilk sundrie craft used yairin, be chosen a wise man of ye craft, and be consent of ye officer of ye toune; ye qlk shall be holdine deacon or master of the rest for ye tyme, to governe and assaye all workis yat beis made be ye craftsmen of yat craft, sua that ye kingis leidgis be not defraude and

skaiþed in tyme to cume, as yai have been in tymes bygone, threw untrue men of the craftes.”<sup>12</sup>

Legislation such as this, coupled with the very numerous accounts of actual fraud which have come down to us, gives an impression very different from that which is often entertained nowadays as to the business morality of the Middle Ages. We need not suppose that the men of an occupation were using the language of hypocrisy when they petitioned the mayor for the establishment of rules which should remove the “scandal” brought upon them by deceit.<sup>13</sup> There was doubtless a sense of professional honour among their leading men; and it is obvious that it would have been impossible to carry out restrictive regulations had not the majority of each craft recognized that the honesty, at any rate of their fellows, was the best policy for the craft as a whole. But the more accustomed we become to the atmosphere of the period, the more we are led to think that these regulations existed, not because there was less tendency to deceit and scamped work then than now, but because there was more—at all events of the kind then prevalent.<sup>14</sup> For it is curious to notice how rude were the forms of deceit—short weight, short measure, the placing of stones in hay or wool sacks, and the like.<sup>15</sup> Of these elementary forms of fraud, society has been tolerably well freed. But it is probable that to create even such a business conscience as we now enjoy, the mediæval system of supervision was a necessary stage, and that the law was our schoolmaster to bring us to liberty. It may be said of the industrial organization as of the ecclesiastical, that men sought a refuge from the weakness of the individual conscience in the strength of a corporate conscience.

Royal and municipal ordinances of the kind above described were not sufficient of themselves to create gild

associations among the men of each occupation. They merely insisted on the appointment of persons from among their number, who should exercise an adequate supervision. But there were already several craft "gilds" in existence, which had arisen spontaneously, and had afterwards obtained royal licenses; and the most obvious and practicable way for the men in other occupations to secure the requisite survey was for them to imitate the older gilds, and form associations on their pattern. In many cases, moreover, there already existed a religious fraternity<sup>16</sup> among the men of a particular occupation. This was markedly the case with the traders of London, such as the merchant taylors;<sup>17</sup> and it was easy for these brotherhoods to take upon themselves the additional duty of trade supervision and control. No one generalization can cover the early history of every mystery;<sup>18</sup> but the point to be observed is that, whatever might be the origin of the association in any particular case,—whether voluntary or enforced from above, whether at first for religious or for industrial purposes,—every occupation that engaged a score of men came, in the fifteenth century, to have an organization of its own, and one substantially the same as that of other occupations; with regular meetings, elected officers, prescribed payments for common purposes, the right of search, certain powers of jurisdiction, common religious interests or practices, and a defined position in the civic constitution.

There were many motives besides the desire for a survey of wares which stimulated the general movement toward gild formation. The gild corresponded so closely to the social tendencies of the time,—the disposition to seek for local or class franchises rather than general liberties, the love of pagantry and public display, the desire to insure

the soul's future by means of alms and masses,—that it became the universal form of association. No one who could possibly prevent it was content to remain unassociated.<sup>19</sup> Accordingly, we find organized misteries among labourers we could scarcely call skilled, *e.g.* the water-leders and porters of York, as early as 1415, as well as among skilled craftsmen whose occupations were amusingly specialized, *e.g.* sheathers, bucklemakers, saucemakers,<sup>20</sup> and stringers (or makers of bow-strings),<sup>21</sup> and among persons we should hardly class as artisans or traders at all, such as parish-clerks.<sup>22</sup>

There was another motive for corporate action, which became more prominent as time went on. The early charters authorizing the existence of craft guilds had usually conferred upon their members an exclusive right to carry on their particular industry in their own town; no man, unless he were of their gild, was to intermeddle with their mystery [*supra*, § 8]. It is very likely that at first the terms of admission were easy, and that the clause was inserted not in order to exclude rival craftsmen, but in order to force all craftsmen to join the association; although as early as 1321 the London weavers were accused of misusing this power to demand heavy entrance-fees, and thereby unduly limit the number of licensed workmen.<sup>23</sup> So also in these industries wherein no gild had arisen, so long as there was no other organization than a number of overseers appointed in consequence of the command of the public authorities, there would seem to have been nothing to prevent any person from setting up for himself, and continuing to work at a trade, provided only that his productions reached the commonly accepted standard. It is true that it came to be the rule in many places quite early in the fourteenth century that, before entering upon certain occu-

pations, a man must be admitted as a freeman of the city; but this limitation came at first from the side of the municipal government, and not from the men of those particular occupations.<sup>24</sup> The same freedom probably existed at first in those crafts where there was no other organization than the religious fraternity. Although its members would probably exercise all their influence to get a new-comer to join, he was not absolutely compelled to do so.<sup>25</sup> But, before the middle of the fourteenth century, there are unmistakable traces of the desire to limit competition by diminishing the influx of new-comers. Such a desire would lead the men of every occupation to seek for something beyond a mere supervision by search officers, and to request the municipal authorities to give them power to impose conditions upon persons wishing to set up in business.<sup>26</sup>

In London we can trace every stage of this development towards restriction. In the articles granted by the mayor and aldermen to various bodies of craftsmen in the earlier years of Edward III., the main provision, as we have seen, was for the appointment of wardens to enforce the observance of certain standards. But it had already been laid down in a charter of Edward II. that "no trader of any mystery or craft should be admitted to the freedom of the city except upon the security of six reputable men of such certain mystery or craft;"<sup>27</sup> and this needed only to be supplemented by the other rule that no man should set up in a craft unless he were free of the city,—a rule which was extended year after year to ever-fresh industries at the request of the men thereof,<sup>28</sup>—to give those already engaged in the craft a practical veto over the establishment of new-comers. It might still be possible in some cases to find six craftsmen who would be sureties for a would-be freeman of the city without imposing any

conditions; but this loophole was stopped up by the further ordinance, which many of the occupations obtained, that "no one of this trade shall be admitted to the freedom of the city without the assent of the *Wardens* of the same trade, or the greater part thereof."<sup>29</sup>

The same result was also arrived at in another way. The function of the wardens was at first merely to see that no work was offered for sale that was not of proper quality; but it was only a short step from this to order that "no person should intermeddle with" that particular business "if he be not" *previously* "proved to be a good, proper, and sufficient workman by the wardens of the said trade;"<sup>30</sup> and to make the new-comer swear "before the good folks of the trade lawfully to work according to the points ordained."<sup>31</sup> Well-to-do traders, like the drapers, better able to go at once to the fountain of authority, the king himself, and conciliate him by timely gifts, obtained letters patent which directly ordained that "no one should use that mistery unless he had been admitted by the common assent of the same mistery" (1364).<sup>32</sup> In all these cases the motive assigned is the need of maintaining a proper standard of workmanship; and there is no need to accuse the petitioners of conscious hypocrisy. Many of them, no doubt, sincerely desired to encourage honest and skilful work. But this public-spirited policy was easily combined with self-interest; and the proviso in an ordinance of 1350, *apropos* of the need of the wardens' assent before the city freedom was granted, that thereby "no person who is proper to be a freeman should through malice be kept out,"<sup>33</sup> shows that the dangers inherent in the system were already recognized. And a century later all pretence of unconsciousness was abandoned, and the members of the crafts frankly avowed that they sought protection from the competition of new-comers. Thus the tailors of Southamp-



ton, in 1474, and the coopers, in 1486, represented that they were subject to heavy charges for town purposes, and that they would be unable to maintain their poor estate unless they were given relief against strangers, as well aliens as others, setting up their craft contrary to former custom, to the destruction and impoverishment of the men of the said crafts;<sup>34</sup> whereupon the municipal authorities consented that none should in future "occupy the said occupation . . . in houses, shops, and chambers within the town," unless they "have made fine and gree with the meyre for the tyme being, and with the maisters of the said occupacon and craft."<sup>35</sup>

Another force, altogether strange to our own time, but characteristic of the later Middle Ages, favoured the growth of compulsory and exclusive powers in the craft associations, when once they had been formed. This was the love of pageantry and display, which led the misteries in many towns to assume the responsibility, individually or in conjunction with others, for the production of one of the plays in the series of Corpus Christi representations; or, where there were no plays, and only a grand procession, to take their part therein with due pomp. But this involved a certain expenditure, and, consequently, contributions on the part of the members of the craft; and very naturally the craftsmen demanded that none should be permitted to carry on the occupation who did not bear their share in the expense. As the pageants or processions were regarded as religious works, which it was for the spiritual interest of the town to maintain, the craftsmen, in making this demand, had upon their side the public opinion of the rest of the townsmen, and the authority of the magistrates. The regulation had a twofold result: it led to the incorporation in the craft



society of isolated recalcitrant craftsmen; and it led to a sharp division between the occupations allotted to each organized body. It was felt to be unfair that the men of one craft should encroach on the occupation of another, while they left the struggling craftsmen with whom they were competing to bear the whole cost of their play. This last point may be illustrated by an amusing extract from the municipal ordinances of York, probably of the early part of the fifteenth century: "There was grievous complaint made here in the council chamber by the craftsmen of the city, the 'salsarii' to wit, whom we commonly call 'salse-makers' (saucemakers), that, although by usage hitherto followed all the folks of the *salsemaker crafte*, and also of the *candelcrafte*, without the Flesh shambles, who in their houses and windows sold and exposed Paris candles, did at their own costs and charges together maintain, upon the feast and holiday of Corpus Christi in that city, the pageant in which it is represented that Judas Scarioth hanged himself and burst asunder in the middle, yet now the Pellipers (skinners), and other craftsmen of this city, as well by themselves and their wives, in great numbers, themselves not being salse-makers, do make and do presume to sell and expose Paris candles in their houses and windows; yet, upon being asked, they do refuse to contribute to the maintenance of the pageant aforesaid; therefore, unless some speedy remedy shall be applied thereto, and they be made to contribute from henceforth jointly with the Salsemakers, these same Salsemakers will no longer be able to support such pageant." The Salsemakers, no doubt, expected that when the Pellipers who sold candles found themselves compelled to contribute to the Judas Iscariot play, as well as to their own, they would give up the candle business.<sup>36</sup>

The other consequence of the pageant, the strengthening

of the control of the craft society over the men of that particular occupation, is no less clear. At Coventry, for instance, in 1424, it was stipulated that every journeyman weaver should contribute 4*d.* "ad opus de le pagent;"<sup>37</sup> in 1448, at Lynn, it was laid down in the statutes of the tailors' craft that no man was to practise that occupation "unless he had been apprenticed, and had paid 40*d.* to the mayor, and certain other fees, which were to go to the sustentation of the procession on Corpus Christi day."<sup>38</sup> A recent investigator of the Shrewsbury records remarks that in that city the procession on Corpus Christi day "would almost appear from the charters to be the principal object for which the gilds existed."<sup>39</sup> The Shrewsbury "compositions" (*i.e.* the gild statutes confirmed by municipal authority) commanded the presence of every member, and regulated the order of the procession and the weight of each company's candle: and the "Incese of the Lyght that is boren yerely in the heye and worthie ffest of Corpus Xti Day" received a large share of the fines in every craft.

The crafts having thus grown into organized communities, with exclusive rights, out of groups of men with no tie except a common occupation, the more considerable among them sought to imitate the wider community of the town of which they were members, and obtain from the central government a definite grant of incorporation.<sup>40</sup> This the greater London misteries secured early in the fifteenth century; for instance, the taylors in 1408,<sup>41</sup> the mercers in 1411, the grocers in 1428, the drapers in 1438.<sup>42</sup> What this legal incorporation was held to involve may be best illustrated from the letters patent granted to the grocers, wherein all the powers therein implied are thus detailed: "That the aforesaid mistery and all the men of the same from henceforth be henceforth in deed and in name one body and one

perpetual community, and that the same community be able every year to elect and make from itself three wardens to oversee, rule, and govern the mistery and community aforesaid, and all the men and affairs of the same for ever. And that the same wardens and community have perpetual succession and a common seal for the use of the affairs of the said community. And that they and their successors for ever be persons able and capable in law to purchase and possess in fee and perpetuity lands, tenements, rents, and other possessions whatsoever. And that by the name of the Wardens and Community of the Mistery of Grocery of London they have power to implead and be impleaded before whatsoever justices and in all courts and actions whatsoever.”<sup>43</sup> Incorporation made, however, as little practical difference to the crafts as to the towns.<sup>44</sup> Most of the crafts remained unincorporated down to the reign of Elizabeth or James I.,—the latter of whom incorporated no less than fifteen companies in London, some of which certainly had had a continuous existence since the fourteenth century.<sup>45</sup> The position of such unincorporated societies may be described in the language which Strype uses of one of them, that of the Painters, as it existed down to 1575. It was “a brotherhood and a company, but no incorporation; paying scot and lot, and all kinds of charges in the queen’s affairs, and otherwise, as in time of war; charged with the setting forth of twelve soldiers, and all their furniture, yet having neither lands, revenues, nor any riches to discharge the same; but only levied among the brethren of the company, every man according to his ability.”<sup>46</sup> This instance is very instructive; it illustrates the fact that the estates of many of the misteries were either inconsiderable or non-existent, so that such companies were not affected by the seizure by Edward VI. of some of the lands of those misteries which did possess them,—a subject to which we

shall shortly return; and it further illustrates, what is abundantly clear from the most superficial examination of their history, that the incorporation of many of the companies soon after the Reformation was not the beginning of their legal existence. It did not even correspond to a distinctly new stage in their history.<sup>47</sup>

The increasing importance and sense of fellowship in the several crafts were reflected in the erection of their "houses" or "halls," as the centres of their industrial and social life. Early in the fourteenth century some of the crafts had meeting-places,—modest cottages or mere rooms, like the German "stuben;" and at first, probably, hired. But towards the end of the century they began to erect buildings for themselves, with adjacent kitchens and other offices; and, with increasing wealth, to these were added chapels and almshouses for decayed brethren.<sup>48</sup> The palatial halls which many of the London companies still possess were mostly built for them at a later period: several were once the halls of religious houses and were acquired by the companies after the dissolution.<sup>49</sup> In Germany the guilds often ran into debt for the rent of their "stuben:" and it is likely that both there and in England the cost of the hall was one of the circumstances which led to, and seemed to justify, the demand for heavy entrance fees.<sup>50</sup>

Before the middle of the fifteenth century most of the London crafts had completely established their position. This shows itself in many ways. The greater London companies, for instance, were able to obtain wide powers outside the ordinary transactions of their members; and although these concessions were no doubt facilitated by presents from the companies to the sovereign, they were acquiesced in by the general public as justifiable, and the powers thus acquired were retained for centuries. Thus the

Drapers and Merchant Taylors shared the right of search at the great fair of S. Bartholomew, and tested the measure of all the cloth there offered for sale, by "the Drapers' Ell" and the Merchant Taylors' "Silver Yard."<sup>51</sup> They could in this way be made use of as a police machinery for the enforcement of the various and complicated enactments as to the size of cloth. So, also, without the consent of the mystery of Carpenters no building of any kind could be erected by any person in London.<sup>51a</sup> Then, again, the Grocers secured in 1450 the right of sharing with the city the office of "garbeller of spices;" "garbelling" being a method of cleansing in order to prevent adulteration. The privilege thus obtained by the company gave them not only a considerable revenue, but also authority to see that the proper standard of quality was observed all over England; for their patent empowers them to garbel all spices in whatsoever hands they can find them, "as well in the towns of Southampton and Sandwich as in all other places within the kingdom."<sup>52</sup> The Leather-sellers, in like manner, received in 1444 the power of search into all cases of fraudulent practice in the working of leather throughout the whole of England.<sup>52a</sup>

The policy of using the craft-organizations as organs of local administration was unreservedly adopted by the Yorkist rulers, who relied for their support largely on the mercantile and industrial classes; and of this there is a notable example. The Act of 1463, prohibiting the importation of woollen cloth and of a great variety of other manufactured articles, conferred the powers of search necessary for its execution upon "the masters and wardens for the time being of every craft and mystery in every city, borough, town, and village where any such craft or mystery is used or occupied," and where there were enough men of the particular occupation to have such officers over them.<sup>53</sup>

§ 33. Side by side with the increasing delimitation of the crafts towards the outside world went a differentiation of classes within them. The history of this differentiation gathers round the institution of apprenticeship and the contract of journeyman service. Of these it will be convenient to take apprenticeship first. In the later gild system, when it had taken its complete shape, every person who wished to enter into an organized industry had first to pass through a period of apprenticeship. It has, however, already been pointed out that in the middle of the fourteenth century this was not yet an absolutely necessary preliminary before setting up as a master craftsman. Most of the ordinances, drawn up by the men of the various London misteries and confirmed by the mayor, admitted the attestation of sufficient skill by the craft officials as an alternative to apprenticeship; in some instances they even speak of the freedom of the trade as a thing that could be "bought."<sup>54</sup> If this was true of those who set up as independent masters, still more was it true of those who only sought to be employed as journeymen, or "servants" as they were more usually called. It was still necessary, as late as 1398, for the ordinances of the Leathersellers to lay down "that from henceforth no one shall set any man, child, or woman to work in the trade, if such person be not first bound apprentice, and enrolled in the trade;" and they still excepted from this rule a master's own wife and children.<sup>55</sup> Among the Bladesmiths, ten years later, it seems to have been an exception, rather than the rule, that a journeyman should have gone through an apprenticeship. Only thus can we explain the clause in their ordinance, "that no one of the trade shall teach his journeymen the secrets of his trade, as he would his apprentice;"<sup>56</sup> for if they had been apprentices they would have learnt the secrets while working as such. Still, appren-

ticeship was probably by this time becoming the general rule; for the Act of 1406,—which was avowedly intended to lessen the influx from agricultural labour to industrial pursuits,—merely enacts that no persons unable to spend twenty shillings by the year should apprentice their children.<sup>57</sup> The object of the Act would not have been attained had not apprenticeship been generally insisted upon; indeed, the language of the statute itself implies that “putting a son or daughter to serve as apprentice” was equivalent to “putting” him or her “to any mistery or handicraft.”

Yet, although this was the case, the custom had not yet acquired its later rigidity, nor was there a settled rule as to the length of the term of apprenticeship. A London ordinance, assigned (though probably on inadequate grounds) to the reign of Edward I., lays down that “no apprentice shall be received for a less term than seven years.”<sup>58</sup> But if any such rule was given forth at that early date it was certainly not obeyed; for it had again and again to be insisted on in the ordinances of the several crafts during the fourteenth century.<sup>59</sup> Indeed, for some time the term of apprenticeship was apparently regarded as depending very much upon the favour of the master. If he were disposed to release his apprentice at any time short of the seven years, or whatever other period had been entered in the indenture, there would seem to have been no difficulty in the way of the apprentice being admitted as a master,—on condition, we may suppose, that he had acquired a fair degree of skill. Thus it is very common in wills of the later part of the fourteenth century to find masters releasing apprentices from their engagements, or bequeathing to them the remainder of their term; very much as they might leave money gifts to them.<sup>60</sup> In one amusing case the testator satisfies at the same time a grudge against his wife and a liking for the apprentice by ordering



that if the wife,—who, clearly, was to carry on the business, —married, the apprentice was to be free.<sup>61</sup>

Several early indentures of apprenticeship have been printed.<sup>62</sup> One of the earliest belongs to the year 1396. It is practically identical in form with the indentures of the present century. The contract is for seven years, during which the apprentice is to be instructed in the craft of his master,—“*ad artem vocatam Brasyer’s craft erudiendum*,” —being chastised “duly, but not otherwise.” The master is to find all necessities; and the apprentice is bound to good behaviour, and is not to marry without leave. There seem no traces in England of the rule which appears in France, that the apprentice shall not be beaten by the wife.<sup>63</sup>

Municipal and craft ordinances, when they touched upon the proper term of apprenticeship, usually insisted upon its lasting *at least* seven years. This was peculiarly “the custom of London;”<sup>64</sup> and it was prescribed by the great Statute of Apprentices (5 Eliz. c. 4).<sup>65</sup> Longer terms, however, not infrequently occur, *e.g.* for eight,<sup>66</sup> ten,<sup>67</sup> and even twelve years. An instance of the last-mentioned term is presented by a draper of London in 1367;<sup>68</sup> and this is the more interesting, because in France it is precisely in trades of this commercial character that the longer terms usually appear. Cases of six or even fewer years are also to be found in England.<sup>69</sup> Still, seven years soon came to be by far the most usual period: and in thus having, not only a normal period, but also one comparatively long, England seems to have been distinguished from the rest of Western Europe. In Germany the usual term was from two to four years; but there, in addition to the obligation of apprenticeship, it became the custom to impose upon the workman on coming out of his time the duty of “travelling” or



“wandering” for a number of years, sometimes as many as five.<sup>70</sup> In France the conditions were more like those of England. The usual term was six years; but it was sometimes as short as three or four, sometimes as long as eleven.<sup>71</sup> Examples of very long apprenticeship occur in France as early as the fourteenth century; and, as they are found in crafts involving very different degrees of skill, it is clear that the needs of technical education were not their sole cause.<sup>72</sup> But it was common in France to give the apprentice a small salary after the first two or three years, if he were recognized by the craft authorities as a capable workman.<sup>73</sup> In England, when any such remuneration was given, it seems to have been longer postponed. Thus, in an indenture of apprenticeship to a carpenter in 1409, it is laid down that the master “shall provide John, his apprentice, with food, clothing, and other necessities, according as it is fitting that such an apprentice should be provided for, for the first four years, and also all the instruments pertaining to the carpenter’s art, with which he may have to work in the service of his master; and in the fifth year the aforesaid John shall find himself in everything, except that his master shall find him in all the instruments, Anglicé the *tools*, with which he shall have to work, and he shall receive from his master 20s. And in the sixth year he shall receive from his master 40s. for everything” (and apparently provide his own tools).<sup>74</sup> But these were unusually liberal terms. In an indenture to a cordwainer in 1480, the term is for eight years; the apprentice is to receive for the first seven years only a little pocket-money, 3*d.* for the first, 6*d.* for the second, and so on, increasing by 3*d.* each year; not till the eighth year was he to receive more, and then only 10s.<sup>75</sup> In another case, an indenture to a coverlet-maker in 1451, there is no pocket-money at all; the term is for seven years, for the last of which

alone are wages to be paid, to the amount of 9s. 4d.; and the apprentice binds himself to work for the first year afterward for the same master at a wage of 20s.<sup>76</sup> This last condition reminds us of the common Scotch indenture,—for five or six years “as prentiss, and one year for meat and fee.”<sup>77</sup>

Not only did apprenticeship come to be more carefully defined and more generally insisted upon, but access to it was also restricted in a variety of ways. The movement towards this result came from more than one direction. The landowning classes, dominant in the parliaments of Richard II. and Henry IV., sought to prevent a decrease in the supply of country labour, and secured the passage of enactments which ordered that children who had “used husbandry” till the age of twelve years should abide by the same labour;<sup>78</sup> and that “none that could not dispend 20s. by year in land or rent should put their children to be apprentices within any city or borough.”<sup>79</sup> What exactly were the classes which this 20s. limitation excluded it is difficult to say. Mr. Rogers has calculated that a small freeholder,—and his conclusion would be equally probable in the case of many copyholders,—who cultivated every year twenty acres, and paid a rent in money and service amounting to sixpence an acre, which he believes to be the usual rate, might expect an annual profit of seventy shillings.<sup>80</sup> This calculation is for the period before the Great Plague; and the condition of those who needed to employ no labour beyond that of their own family would hardly have changed for the worse since. Harrison, speaking of a period a couple of hundred years later, describes “yeomen” as being such as could dispend in yearly revenue 40s.; and places “poor husbandmen . . . and copyholders” in a lower class.<sup>81</sup> It may be noticed that the Commons had petitioned for a 40s.

limit; and that the Government had not been disposed to grant them all they wished.<sup>82</sup> It may perhaps be conjectured that the prohibition would not touch well-to-do yardlings,—whether technically freeholders or customary tenants; but that it would affect the smaller landholders, especially the cottagers, and almost all of those who were mainly dependent upon wages.

In London, however, and probably in other great cities, there was another restriction which must have had much the same effect, though here the merchants and master craftsmen who ruled the city were responsible. It was ordained in London by the mayor and aldermen, with the assent of the common council, in the year 1387, that “from henceforth no foreigner (*i.e.* no person from outside the city) shall be enrolled as an apprentice, or be received into the freedom of the city by way of apprenticeship, unless he shall first make oath that he is a free man and not a villein.” The motive assigned is the avoidance of “disgrace and scandal unto the City of London.”<sup>83</sup> A further clause makes it clear that villeins had sometimes risen to the very highest rank in the city:—“If it shall happen in future, *and may it not so chance*, that such a bondman,—a person, that is to say, at the time of whose birth his father was a bondman,—is elected to judicial rank in the said city—that of alderman, for example, sheriff, or mayor; unless, before receiving such promotion, he shall notify unto the mayor and aldermen such his servile condition, he shall pay unto the chamberlain one hundred pounds, and nevertheless shall lose the freedom.”

Similar exclusions from apprenticeship are found in the articles of some of the mysteries;<sup>84</sup> and the ordinance which was issued by the municipal authorities in York,<sup>85</sup> and probably in other towns also, excluding all bondmen (*nativi*) from the freedom of the city, indirectly led to the

same restriction. Here, again, we can hardly tell how the terms were interpreted ; whether, for instance, the rule would shut out the son of a customary tenant. We may perhaps find a way out of the difficulty by supposing that the well-to-do yardling who wished to send his son to the town to seek his fortune would be able to buy a formal manumission.<sup>86</sup>

Another condition that in later times operated as an additional barrier to the crafts was that of the payment of certain fees to the fellowship of the mistery, both on entry upon apprenticeship and on admission to the freedom of the mistery when the term had expired. An Act of 1531 recites that "dyvers Wardens and Felowshippes have made Actes and Ordenannces that every prentice shall pay, at his first entre in their comon halle, to the Wardens of the same fellowship, some of them 40s.; some 30s.; some 20s.; some 13s. 4d.; some 6s. 8d., after their owne senester myndes and pleasure;" and enacts "that no Mayster, Wardens, or Fellowshippes of Craftes, or Maestres, or any of them, nor any rulers of fraternities take from hensforth of any aprentise or of any other person or persons for the entre of any prentise into their said fellowship above the some of 2s. 6d.; nor for his entre when his yeres and terme is expired and ended, above 3s. 4d."<sup>87</sup> Some time before it had been attempted to remedy grievances of this kind in particular crafts. Thus the "composition" granted in 1480 to the Mercers of Shrewsbury set forth that the "fines assessed upon every apprentice at their entries to be Masters, Combrethren, and Setters-up of the said Crafts" (viz. those of mercers, ironmongers, goldsmiths, and cappers), "as well as upon any Forreyne that should entre into the same," were "thought overchargeable," and therefore are to be "diminished and reformed."<sup>88</sup> But the fact that these fees do not appear as grievances until com-

paratively late, while other abuses of the powers of the companies had called forth complaints long before, would seem to show that during the fifteenth century they were not a serious inconvenience to would-be apprentices and their friends.

Far more interest attaches to the limitation in the number of apprentices to be taken by each master; for while at one period it became the means by which a small group of families in each town kept in their own hands a monopoly of their craft, at another and a later period it was resorted to as a weapon of defence by the trades unions in their struggle against child-labour.<sup>89</sup> It has sometimes been supposed that in this matter the mediæval guilds had a uniform policy, and that this policy was dictated by a desire to secure sufficient employment for journeymen when they came out of their apprenticeship. It is true that in most crafts there were certain rules on the subject. At first, in the fourteenth century, these were somewhat vague; thus the London ordinance, forbidding any man to have more than two or three apprentices, continues, "unless he is able to maintain them."<sup>90</sup> And in some of the craft ordinances the same idea shows itself, that the taking of apprentices ought to depend altogether on the ability of the master "to keep, inform, and teach" them.<sup>91</sup> But when we pass to the next century, we frequently come across definite rules. Thus, among the slaters of Newcastle, an apprentice must be taken for seven years, and the master could only take a second when six years had expired out of the term of the first.<sup>92</sup> With the tailors of Exeter the rule was associated with another as to journeymen: no master was to have more than three servants and one apprentice, unless he had the license of his company.<sup>93</sup> In London it seems to have been

usual to regulate the number of apprentices in accordance with the master's rank in the company. "It shall be lawful," says the ordinances of the Founders, "to every Brother of the Craft, being out of the Clothing, that is able with his own stuff and goods to teche and find an Apprentice, to have one and no more at once, except he shew his Complaynt to the Chamb'ln" (of the city), "and if he find him perfect and able, to have two apprentices and no more. . . . Those of the Clothing to have two Apprentices and no more at once. And to him that has been Warden iii and no more. The upper Warden to have iiii and no more at once."<sup>93a</sup> Similarly "it was enacted by the Master and Wardens of the Skinners, with the assent of the Sixteen of the Fellowship of Corpus Christi, that one who has been Master shall have in seven years four apprentices, Wardens three, and others two."<sup>93b</sup> By the beginning of the sixteenth century restriction of some sort was well-nigh universal. In France this stage had been reached somewhat sooner, owing to the earlier development of industry.<sup>94</sup>

None of these rules, however, show any distinct traces of peculiar regard for the interests of the journeymen. Their objects were to limit the number of independent masters, and to secure a good technical training. It is hard to say which motive was foremost; at first probably the latter. Even when in the fifteenth century the selfish purpose becomes unmistakable,—as is indicated, for instance, by the ease with which rules could be set aside in the case of masters' sons,—it was quite possible for the men of the craft to be influenced at the same time by the other consideration. But that self-interest was now at the bottom of their action there can be little doubt. One of the ordinances of the Leathersellers of London, ratified by the Court of Aldermen in 1482, gives a vivid picture of the competition which the

old masters had to expect from journeymen when they came out of their time. We can readily trace, beneath the apparent solicitude for the misguided young craftsmen, the fears which the older masters felt for their own position. "When Men's Apprentices . . . beth come out of their terms, they will in no wise become Servants to serve with their Masters, for reasonable wages as their masters did afore them ; but, anone, they having no good or little good to take unto, taken upon them every of them a mansion or a shop to be upon them self, having no good nor ware of their own to put therein. And beside that, each of them will have, as nigh as he can, one or two Apprentices, having nothing to set them self nor their Apprentices a-work upon, but beth fain to endanger them self (= go in debt) unto other men, or take other men's goods to occupy them self, and their Apprentices therewith all. And so some of them beth not able, by their such misguiding and simple dealing, to occupy passing a year or two at the most, by cause they beth not of power to content the persons whom they borrowed goods of, for the goods so borrowed, but beth fain to void (= escape) some to Sanctuary, some into the country, and some to keep their houses for dread of imprisonment . . . to their own uttermost destruction." <sup>94a</sup>

The general public must sometimes have found the limitation of competition irksome; and this is probably the explanation of the curious attempt which was made at York in 1519 to get rid of every kind of restriction upon employment. "It is agreed," runs the entry in that year, "that all franchised Men being free of one Occupation shall henceforth be free of all Occupations, &c. And it is also agreed, that it shall be lawful from henceforth for every franchised Man to take as many Apprentices, Servants, and Journeymen as he pleases, any Law or Ordinance before



this Time made to the contrary notwithstanding, &c.”<sup>95</sup> It is hardly necessary to say that the efforts of these early predecessors of Adam Smith were overridden by subsequent legislation.

Some light is cast on the relation of journeymen to apprentices by a well-known clause in the great Statute of Apprentices (5 Eliz. c. 4, § 26).<sup>96</sup> Brentano has spoken as if this statute contained a general rule, applicable to every craft, which made it necessary that every man that had three apprentices should keep one journeyman, and for every other apprentice above three one other journeyman;<sup>97</sup> and he has pointed out that the effect of such a rule would be to secure employment for journeymen, and prevent the shops being crowded with apprentices. In this version of the act, he has been very generally followed by subsequent writers;<sup>98</sup> but when we look at the statute itself we find that the rule is limited to certain trades: “any of the sayd Craftes, Misteryes, or Occupacions of a Clothemaker, Fuller, Shereman, Weaver, Taylor, or Shoemaker.” The first four of these were branches of the cloth industry; and we can easily understand that with the extension of the domestic manufacture over the country districts, it may have been found necessary to guard against an undue resort to the cheap labour of apprentices to the detriment of adult workmen. The mention of the tailors is sufficiently explained from the records of the London Merchant Taylors’ company. It appears that the tailors were encroaching on the occupation of the clothworkers; and not only so, but were employing therein more apprentices than were allowed to the clothworkers themselves by the ordinances of their company. It had been necessary for the mayor and common council to intervene, and they had issued an order in 1552 “that none of the merchant taylors using or that hereafter shall use



the occupation of the clothworkers, shall have, keep, or retain in his service . . . any more apprentices at once than two, as the said clothworkers do keep.”<sup>99</sup> And in their own peculiar occupation many of the merchant taylors were disregarding the customary limits. An attempt had been made to check this by an ordinance of the company in 1507, which imposed a fine of twenty shillings for each apprentice after the first,—a measure in which the interests of the journeymen must have concurred with those of the smaller masters: but this was held to be an infringement of the statutes 19 Henry VII., c. 7, and 22 Henry VIII., c. 4,<sup>100</sup> and could not be enforced. The Act of Elizabeth may be regarded as a compromise. It aimed at preventing the evil of excessive employment of apprentices without unduly limiting access to the occupation; but it did not satisfy the journeymen of the craft, who a few years later were anxious to petition against so liberal a concession to employers.<sup>101</sup> As to the need for extending the rule to shoemakers, we have no information; but it was probably due to somewhat the same causes as in the case of the tailors.<sup>102</sup>

The only other occupations to which the limitation in the number of apprentices was ever extended by statute were the hatters, and the weavers of “stuffs” in Norfolk; and each of these instances is instructive. The new fashion under Elizabeth of wearing “hats and felts” seriously affected the makers of woollen caps; and it was at their “lamentable suit and complaint” that, in 1566, the manufacture of hats was put under various restrictions. It seems to have been felt that it was only fair that the new industry should be put under the same sort of rules as governed the old, especially the obligation to serve an apprenticeship. It was therefore enacted in that year that none should make hats of foreign felt who had not been apprenticed to hat-making. It was

added that "no maker or worker of hats" should take "above two apprentices at one time, nor these for any less time than seven years at the least," with the usual exemption of the employer's own children.<sup>103</sup> The restriction, we gather, was primarily in the interest of the cappers, that they might not be undersold by the cheap labour of the hatters; and in this respect it resembled the restriction on the merchant tailors in the interest of the cloth-workers. But fashion was on the side of the hatters, and the statute was not enforced. It was thought necessary in 1603-4 to re-enact the old rule; but now the immediate motive was somewhat different. There was now no reference to the interests of the cappers; they were quite forgotten. But it had been found that the hatters were in the habit of retaining "great numbers of apprentices, who daily go away from their masters and before their terms be ended, and, being unskillful, do make and put to sale great quantities of hats and felts very falsely and deceitfully made and wrought to the great damage of His Majesty's most loving subjects."<sup>104</sup>

As to the makers of worsted, an Act of 1497 had exempted them from the 20s. rule, on the ground that of that "ability can few or none be had to be apprentice," and had gone on to authorize every worsted-maker, thereto enabled by the wardens of the occupation, to take any persons as apprentices, "so that he pass not two at once at the most."<sup>105</sup> Here, again, it is one of the new domestic industries that is dealt with: for the legislation of the period proves that the worsted industry, originally established in Norwich, was now extending itself to the country districts; and the petition against the 20s. limit shows that, like the rest of the cloth manufacture, it provided employment for the very poor. No danger to the journeymen would seem to have appeared for a long time after this Act was passed. It was

not till 1662 that legislation again dealt with the matter ; and this act is the more interesting as being, apparently, the first formal recognition by parliament of the need of safeguarding the interests of the journeymen. " For the better providing that poor Journey men who have served in the said Trade " [the making of worsteds and other stuffs, commonly called Norwich stuffs] " and are not able to set up for themselves may be employed in work, It is hereby enacted That whatsoever Person, under the Regulation of the said Trade, who shall employ two Apprentices in the said Trade, shall likewise employ and set on work two Journey men in the said Trade during the time he employs two Apprentices, and that no Master Weaver under the Regulation of the said Trade shall at any time have, employ or set on work above two Apprentices, or any week-Boy to weave on a Lomb." <sup>106</sup>

It must not be supposed that, because the legislative limitation applied only to certain crafts, such a restriction was not to be found in others. It is this very fact, probably, that by custom and craft-ordinance the rule was sufficiently established in all the other occupations, which explains why it was now necessary to deal only with certain special cases. Nor must it be supposed that the crafts to which it was applied were of slight importance: the woollen industry was, of course, of the most vital importance to the masses of the population. Moreover, the example of the industries specially regulated by statute probably exercised a very considerable influence on all the industries outside. Finally, a main purpose of the legislation was,—as we can gather with certainty in the case of the tailors and worsted-workers, and as we may fairly conjecture in the other trades,—to secure employment for journeymen. Hence there is no very serious objection to be found on the whole with the impression which Brentano gives: although it has been necessary, for the more accurate

understanding of the industrial evolution, to point out that the enactment did not cover the whole of the industrial field, but only those industries that were passing from one stage to another, from the gild system to the domestic system. It was not the extension to the whole field of industry of a rule which had grown up in a few crafts, but an attempt to keep within a restriction already customary a few industries which were breaking away from it.<sup>107</sup>

§ 34. The contract between masters and journeymen suggests questions of far more vital importance, and around it gather most of the popular discussions of mediæval industrial history. Writers of very different schools, conservative reactionaries and socialist revolutionaries, have agreed in picturing the mediæval workshop as the home of a happy family, where none of those collisions of interest ever occurred which now disturb the harmony between employer and employed; while other writers, in reaction from so roseate a view, or under the influence of the common love for historical parallels, have represented the workmen of the Middle Ages as already subject to the tyranny of capital, and as anticipating by their struggles the movements of modern working men. Like many other differences of opinion, this particular one has been largely caused by the failure to distinguish,—to distinguish between one century and another, between one industry or place and another industry or place. Of these defects the greatest is that which concerns the date of industrial phenomena. It is still common to cite, side by side, facts of the thirteenth century and facts of the sixteenth as if they belonged to the same stage of evolution. Certainly mediæval conditions were stable compared with those of the present century; but nevertheless a constant pressure of economic forces was at work, under which social organization was in unceasing pro-

cess of modification. For our present purpose it is not only necessary to distinguish between the thirteenth century and the sixteenth; it is necessary also to distinguish between the thirteenth and the fourteenth, the fourteenth and the fifteenth.

It has already been pointed out [§ 8] that the rise of the craft guilds in the twelfth and thirteenth centuries meant the appearance in Western Europe of Industry as a separate economic phenomenon, as distinguished from Agriculture on the one side and Trade on the other. There had, indeed, been such a separate manufacturing class under the Roman empire; but it had disappeared when that empire broke up. The economic activity of the early middle ages was an almost exclusively agricultural one: the manufacture of such rough clothing or implements as the mass of the people needed was the work of those who tilled the soil. Then there slowly arose a merchant class; at first, it would seem, merely to meet the needs of the wealthy and more luxurious, and then to transport from place to place a local superfluity of such raw produce as corn or wool. But with the appearance of craft guilds we see, for the first time, a body of men with whom manufacture was not a bye-employment, but the main business of their lives. This was at first but a differentiation of employment; due to the progress of peace and order which brought about such an increased production of food that the existence of a non-agricultural class became physically possible, and at the same time led to a demand for certain articles so steady that men could safely devote themselves to supplying the need. The skill at first required was but slight; but with the growth of a special body of craftsmen it tended to become markedly greater than that of the average peasant when he occasionally turned his hand to manufacture; and so also to become the exclusive

property, handed down by inheritance and training, of the artisan class. The capital needed was but small; a loom cost no more, probably, than a plough. Moreover, to add another feature of early mediæval industry that has seldom been sufficiently dwelt upon, the labour of the craftsman was originally as a rule *piece-wage* work. The person who needed an article—*e.g.* a piece of cloth or a ploughshare—either brought the materials, the yarn or the iron, to the artisan's house, or ordered him to come to his own house, and there set the materials before him, and, when the article was ready, paid him for the work.<sup>108</sup> Conditions such as these cannot be put into our modern economic categories, which are but the reflection in the field of theory of existing material conditions. The person who took the first step in such transactions we may call either the "employer" or the "customer" according to the way in which we regard him. He was certainly as a rule the "consumer;" but then, if we call a modern manufacturer a producer, he was also a "producer." In the same way the craftsman was doubtless primarily a "labourer;" but so far as he possessed capital in the shape of tools or workshop of his own, he was also a "capitalist." By-and-by, without his position being really much altered, he would begin to take a boy or younger man to work with him and learn the trade, and then he also became an "employer;" and if, in an hour when he happened to have no order to execute, he bought materials for himself and manufactured a little cloth or what not, on the chance that there would be a demand for it, he became an "entrepreneur." Accordingly, although it has been usual to say that the early craftsmen *combined* the functions of labourer and capitalist, employer and employed, manufacturer and tradesman, it would be simpler,—if we are to formulate at all,—to say that the position of the craftsman at first merely represented the

division between agriculture and industry; and that the work of the later centuries was not to separate functions which had never really existed, but to bring out of an undifferentiated industrial activity the various classes with their separate functions that are indicated by our present economic phraseology.

But before the middle of the fourteenth century a "labour class" had come into existence, in a sense of that term in which it had never been true before. There were now to be found a considerable number of workmen who were neither apprentices indented to a master merely for a period of probation, nor master craftsmen; men, who without having been apprentices, or,—increasingly as time went on,—after coming out of an apprenticeship, became the employés of master-craftsmen. At first the number of these "servants," "serving-men," "valets," or "yeomen," as they were variously called, was probably very small. Many master craftsmen worked by themselves, or with the aid only of an apprentice. For some time the "servant" was rather the subordinate companion, the assistant of the master, than his employé. Many ordinances and statutes assigned to him a wage more than half as much as that of the master himself;<sup>109</sup> and it would often be paid to him, not by the master, but by the person employing them both.<sup>110</sup> The relations of master to man were not very dissimilar from those of the head of a household to the sons of the family; and, as with the sons, the position of dependence was, at first and as a rule, but a temporary one,—an intermediate stage during which the workman gained further experience, and saved a little capital before he set up on his own account.<sup>111</sup>

But soon there are indications that this class is increasing; and also that it is ceasing to be possible for every average journeyman after a few years' employment to set up for him-



self. There are indications, which will soon be described, that a body of men is coming into existence who are unable to look forward as a matter of course to a time when they shall themselves be master-craftsmen. Various causes have been assigned for this: an increase of population leading to a superfluity of labour;<sup>112</sup> a widening market and consequently a greater importance of capital, now that master artisans began to buy their own materials, and manufacture for the anticipated demand of the general public; an influx of labour from the country districts, following upon the gradual relaxation of the bonds of villenage;<sup>113</sup> or, finally, the sheer selfishness of the masters in limiting their own numbers. But whatever may be the cause, of the fact itself there can be no manner of doubt. By this time, therefore,—in some industries as early as the end of the fourteenth century, but in most fifty years or more later,—it would be accurate to say that a “working class” had arisen in the sense in which we now use that term. It is desirable to call attention to this, and to point to the further fact that, as soon as this class appeared, what is known as “the labour question” also began to perplex legislators. The labour question is, accordingly, not one that has appeared for the first time in our own day; it is one that has grown in magnitude and difficulty from small beginnings centuries ago. Moreover, the existence of a labour class in the fourteenth and fifteenth centuries is of importance not only in relation to the problems of to-day, but also, as we shall see, as helping to explain the genesis of a new organisation of industry in certain manufactures in the sixteenth century. Brentano and Schanz have therefore done a service to economic history, in laying emphasis upon it; but the exaggerated phrases sometimes used in this connection, phrases which seem to imply that modern conditions do but reproduce



those of the Middle Ages, have led Ochenkowski and others unduly to minimise the facts, and to seek to show that the whole body of craftsmen, including both masters and servants, formed, down to the close of the Middle Ages, a homogenous class, undivided by conflicting interests.<sup>114</sup> The truth is that, though there was a labour question then and though there is a labour question now, everything was on so much smaller a scale that the difficulties of the situation were far more manageable; and the personal intercourse of masters and men was infinitely closer than that of the great modern employers and their hands. Though there was a journeyman class, the conditions of industry did not permit it to grow so rapidly as to destroy the gild system; rather may it be said that a class of permanent journeymen became a fixed part of the gild system, and so remained for centuries. Moreover, it must not be overlooked that in the smaller crafts and the smaller centres of industry conditions long remained patriarchal after they had been greatly modified elsewhere. On the whole, the relations between masters and men continued, in England as on the continent,<sup>115</sup> to be fairly satisfactory. As Brentano himself says, in a passage to which his critics have hardly paid due regard, "Nowhere do we find a trace of opposition against the prevailing trade system . . . ; the old disagreements seem merely like family disputes between parents and children."<sup>116</sup>

For the existence of a separate journeyman class, with interests in some respects distinct from those of the master-artisans, there is a good deal of evidence. Among the London ordinances, for instance, there are accounts in identical terms of disputes between masters and "valets" among the shearmen in 1350,<sup>117</sup> and the weavers alien in 1362.<sup>118</sup> The ordinances describe common agreements among the men not to work, of exactly the same character as modern strikes; and

they give full powers to the wardens of the crafts to deal with all such cases in future: "Whereas, heretofore, if there was any dispute between a master in the trade and his man (vadlett), such man has been wont to go to all the men within the city of the same trade; and then, by covin and conspiracy between them made, they would order that no one among them should work or serve his own master, until the said master and his servant or man had come to an agreement; by reason whereof the masters in the said trade have been in great trouble, and the people left unserved; it is ordained, that from henceforth, if there be any dispute moved between any master and his man in the trade, such dispute shall be settled by the wardens of the trade. And if the man who shall have offended, or shall have badly behaved himself towards his master, will not submit to be tried before the said wardens, then such man shall be arrested by a sergeant of the Chamber, at the suit of the said wardens, and brought before the mayor and aldermen; and before them let him be punished, at their discretion."

The complaint of the master shearmen that their men will not be content with the customary wages is one among many examples of the demand for higher remuneration produced by the Black Death among townsmen as well as among country labourers; and the difficulty may therefore be argued to have been but a temporary one. But the point to observe is that, had it been easy for the men to set up as masters, they would have chosen that way to take advantage of the lessened supply of labour. It must further be observed that the movement of the journeymen did not result altogether in defeat; it resulted also in the removal of the power to determine wages from the individual master to the mystery as a whole, or the wardens as its representatives.<sup>119</sup>

We not only discover a journeyman class; we can see

some of the obstacles that were put in the way of their becoming masters. Comparatively heavy entrance-fees were charged for admission to the freedom of the mystery, so heavy that in 1536 the legislature was obliged to interfere.<sup>120</sup> In some trades the masters had gone so far, the statute recites, as to exact an oath from apprentices that they would not set up in business, when their term expired, without the masters' consent. Before this the town council had sometimes intervened. In Oxford it was "estatuted and enacted," in 1531, "by the more part of the Council of the Town, that no occupation for crafts within the town of Oxford and the suburbs of the same shall take of any person that shall come to be brother of their crafts above the sum of 20s.; and if the same craft or occupation take any more than the same 20s., that then the same occupation or craft to forfeit to the use of the Town coffers 40s."<sup>121</sup> The evil must have been unendurable before the town council would interfere; for in most places the mysteries were so powerful that the municipal authorities were only too ready to support the master craftsmen.<sup>122</sup> It may be added that in some towns the would-be master had also to provide an expensive breakfast for the freemen of the craft.<sup>122a</sup>

But although it is quite clear that the crafts were running the same course in England as on the Continent, where most of them fell into the hands of a knot of families jealously guarding the trade for itself, yet the obstacles in the way of mastership were never quite so numerous in England as abroad. It has already been noticed that the obligation to travel for a period of years, before admission to mastership, does not appear in England. Then, again, there is no trace in the Middle Ages, and hardly a trace afterwards, of the obligation to produce a "chef d'œuvre"<sup>123</sup> or "meisterstück;"<sup>124</sup> although even in Scotland a "masterstick," or "essay," was commonly

requisite.<sup>125</sup> As to the general relations between employer and employed, two other facts must be noticed. In the first place, the fixing of journeymen's wages by the mystery seemed but fair at a time when the remuneration of the masters themselves was in many cases directly or indirectly limited by legislation or civic ordinance.<sup>126</sup> And in the second place, the authority of the craft, even after it had altogether fallen into the hands of its wealthier members, continued to be used for the protection alike of apprentices and of journeymen against the violence of their employers. When, for instance, a certain tailor of Exeter unlawfully chastised his servant, in 1482, "in bruising of his arm, and broke his head," the Master and Wardens of his craft ordered him to pay to his servant five shillings to cover the doctor's bill ("for his leachcraft"), three and four pence for a month's board ("for his table"), fifteen shillings damages ("for amends"), and also a fine of twenty pence to the craft ("for his misbehaving").<sup>127</sup>

§ 35. There is, however, a further proof of the divergence in interests between the master craftsmen and their journeymen to which it is desirable to call special attention, because the extent to which it is discernible in mediæval England has not hitherto been sufficiently noticed. German social historians long ago called attention to the formation, at the end of the fourteenth century and subsequently, of special fraternities or other associations of journeymen, formed on the general model of the craft guilds, but designed to meet the peculiar needs, religious, social and economic, of the journeymen alone.<sup>128</sup> But it was not until the appearance of Schanz's treatise on *Gesellenverbände*, in 1877, that it was perceived that such organizations were well-nigh universal in Germany; and that they were not mere isolated examples of local discontent or of exceptional circumstances in par-

ticular crafts, but represented a distinct stage in the development of many branches of industry.<sup>129</sup> In France the subject has hardly received special investigation, although there, also, Levasseur has spoken of the "confréries" of "compagnons" as everywhere to be found in the fifteenth century.<sup>130</sup> In England the instances of journeymen's societies which had been observed until very recently were only four or five in number.<sup>131</sup> Of one of these, that of the tailors of Exeter, nothing but a bare mention has come down to us.<sup>132</sup> Three others were all in London; and the evidence then accessible came no later than 1417, when they were struggling, apparently with little prospect of success, for recognition by the municipal authorities. It was therefore natural to conclude that journeymen's associations in England were very exceptional; that, instead of playing a considerable part in gild politics, and having a long and significant history, as on the continent of Europe, they were but slight and ephemeral movements. The recent publication of additional historical material has, however, made it plain that they were not at all uncommon, and that English conditions were after all not very unlike those of the rest of Western Europe. Here, as elsewhere, the sharp contrasts which it has been the custom to draw between English institutional history on the one side, and that of France or Germany on the other, are beginning to disappear;<sup>133</sup> though it must in fairness be added that this is due not only to approximation on the part of English to foreign scholars, but also to a certain softening down of exaggerated features in the presentation of continental history.

The publication of Mr. Clode's history of the Merchant Taylors' Company has, for the first time, revealed to us the existence, and something of the constitution, of a journeyman's society which succeeded in maintaining itself for a

prolonged period.<sup>134</sup> Other evidence proves that besides the early examples long ago noticed in London, there were similar bodies, in the fifteenth and sixteenth centuries, in at least eight other important London crafts; so that the condition of affairs in the tailors' company was probably only parallel to that in most of the other London companies.<sup>135</sup> Outside London there is now clear proof of such associations in three towns,—besides Exeter, where it had already been noticed,—viz. in Bristol,<sup>136</sup> Coventry,<sup>137</sup> and Oxford.<sup>138</sup> In Oxford we find the journeymen's association in the shoemakers' occupation, which was certainly not one in which the masters were exceptionally opulent; so that we can fairly conjecture that the account is typical of what was going on in many other places and industries. Before drawing any conclusions, it will be worth while to look somewhat carefully at the evidence.

In 1415 it was represented to the mayor and aldermen of London that certain serving-men and journeymen of the tailors, called "yeomen tailors," "did hold and inhabit divers dwelling-houses in the city against the will of their superiors and the masters of that trade," and there held divers assemblies.<sup>139</sup> They had of late beaten and maltreated many lieges of the king, especially "one of the masters<sup>140</sup> of the trade," and they had frequently carried out, and daily endeavoured to carry out, the rescue of disturbers of the peace from the serjeants of the city. The master and wardens of the craft declared that they were unable to bring the refractory yeomen to obedience; whereupon the mayor sent for a number of representatives of the yeomen, and laid upon them certain strict injunctions. They were not to adopt peculiar liveries or suits at their annual assemblies; nor, indeed, were they to hold any assemblies at all. They were not to live together; and, in general, they were for

the future to be "under the governance and rule of the master and wardens of the mistery, the same as other serving-men of other misteries of the city are, and are bound to be."

At first sight this might appear to be nothing more than the necessary repression of lawlessness and turbulence; but the mention of annual assemblies, at which common liveries were worn, allows us to see that it was at any rate something different from mob violence; that there was some sort of attempt at formal organization. That this organization had other objects besides those of which so unfavourable a description is here given, and that it had been in existence for some little time, is proved by the fact that in a will of 1413 the testator makes a bequest of 20s. "to the maintenance of the alms of the fraternity of the valet-tailors."<sup>141</sup> Nor did the municipal order of 1415 put an end to their society; for in 1417 a number of yeomen tailors had the boldness to appear before the mayor, and petition for permission for themselves, and "other their fellows of the fraternity of yeomen," "to assemble annually on the feast of the Decollation of S. John Baptist in the church of S. John of Jerusalem, near Smithfield," "there to make offering for the brethren and sisters of their fraternity deceased, and *do other things which theretofore they had been wont to do.*" The mayor and aldermen, having consulted the record of 1415, replied that "an assembly of this sort, although it is sought and prayed for under a pious pretext of goodness, if it were permitted would nevertheless manifestly tend to the infringement of the earlier ordinance, and the disturbance of the peace, as other assemblies in the said trade have done;" and they ordered that in future "no servant or apprentice shall presume to enter any assemblies, at that church or elsewhere, unless with, and in the presence of, the masters of the said mistery."<sup>142</sup>

All the features of the movement here described are



exactly the same as in the two other early cases of yeomen fraternities that appear in the archives of the municipality of London,—that of the cordwainers in 1387, and that of the saddlers, which was said to have been first formed in 1383, and which came up before the mayor in 1396. The journey-men cordwainers had agreed with a certain friar preacher that he should go to Rome, and get papal confirmation for their fraternity.<sup>143</sup> The serving-men of the saddlers had been wont “to array themselves all in like suit once a year,” and then go and hear mass in honour of the Virgin Mary,—thus, as the masters alleged, putting on “a certain feigned colour of sanctity.”<sup>144</sup> So, also, the same accusation of violence is brought against the journeymen cordwainers as against the tailors; but in this case an explanation is suggested. At their annual meeting at the convent of the friars preachers, “because that Richard Bonet, of the trade aforesaid, would not agree with them,” they “had made assault upon him, so that he hardly escaped with his life.” Richard Bonet we may imagine to have been either a journeyman who had refused to join the association,—and in England, as on the Continent, membership, no doubt, soon became practically compulsory on all journeymen,<sup>145</sup>—or a master who had tried to interfere. This suggests that, in the case, also, of the yeomen tailors, the acts of violence were not of the nature of swash-buckler insolence towards the world at large, but resembled rather that rough handling of “knobsticks” or “scabs” which is even now a frequent feature in labour disputes.

The general resemblance between the three early cases is so striking that we may fairly fill in the gaps in our knowledge of the yeomen tailors by what we are told of the saddlers. The master saddlers objected to the fraternity of their yeomen on several grounds. They urged, for instance, that the pious practice of holding vigils of the dead, with

offerings (for masses) made for them on the morrow, meant that the journeymen from time to time absented themselves from work to the great inconvenience of their employers. But they probably touched the heart of the dispute much more nearly when they declared their opinion of the real object of the fraternity. Under a feigned cover of sanctity, the yeomen, so the masters stated, had formed covins (*i.e.* conspiracies) "*with the object of raising their wages greatly in excess,*" and indeed had been so completely successful that wages had been more than doubled.

Both the account of the journeymen cordwainers and that of the journeymen saddlers speak of them as violating an ordinance which had been issued by the mayor in 1383, forbidding the holding of any congregation, conventicle, or assembly without leave of the mayor.<sup>146</sup> And putting this and the other indications together, we may perhaps draw some such conclusion as the following.

The Peasant Revolt of 1381 had probably created a ferment among the journeymen in the towns not unlike that among the villeins in the country. By this time they were a numerous body; not, it would seem, grievously down-trodden or very harshly used, but still conscious that they were never likely to become masters, aware that if their material position was to be improved it must be as journeymen, and now astir with the new idea that it depended on themselves to secure this improvement. That joint action, public demonstrations, combined refusals to work, *i.e.* strikes, were the likely means of securing higher wages, or any other better condition of labour, needed no special instruction; and these methods had been resorted to, as we have seen, thirty years before by other bodies of workmen.<sup>147</sup> But at the very time that there was this desire for greater independence and better remuneration, there was also a very strong move-

ment, especially among the masses of the town population, towards the formation of religious fraternities. By the formation of such a fraternity, the journeymen felt, vaguely perhaps, that they would get an opportunity for common deliberation; they would exhibit their numbers and unity, and so impress the masters; and yet, under cover of their religious purpose, they might escape that attack from the municipal authorities which any direct assault upon the existing industrial order was sure to call forth. And the fraternity would be profitable not only for the world which now is, but also for that which is to come. For it was, of course, quite possible to combine a keen desire for higher wages, and a readiness to use the fraternity to secure them, with a genuine belief in the efficacy of the masses and other religious offices which it was ostensibly the prime object of the fraternity to provide. Schanz has shown that in Germany also the usual shape taken by the journeymen's association was that of a religious fraternity; although it was, as a rule, one of its main purposes, either from the first or very early in its history, to defend the economic interests of its members.<sup>148</sup>

We have no information about the journeymen tailors between 1417 and 1446. The ordinance of 1417 had not absolutely forbidden their assemblies; although it had made the sanction of the masters a necessary prerequisite. Whether for a time the master craftsmen continued to aim at the suppression of the yeomen's fraternity, and were only induced to give it their countenance by finding that it would remain alive in spite of them, so that they had better accept the situation and make the best of it; or whether they at once proceeded in 1417 to exercise supervision over the yeomen's gatherings, we are at present unable to say. But in 1446 we discover that the "yeomen fellowship" has become a subordinate but acknowledged member,—or, rather,

a dependent adjunct,—of the company.<sup>149</sup> In 1458 they had a warden of their own,—how appointed we know not; and this officer was paid by the company “for the search of foreigners,” *i.e.* for going round into all the workshops to see that no non-freemen were employed. Then, again, for more than a century we have no evidence. In 1569, however, we find that the yeomen, or “bachelors’ company,” as they were now called, were governed, on the model of the merchant company, by four “wardens substitute,” appointed from among the master craftsmen by the merchant company, and that these were assisted by “the sixteen men” or assistants, chosen apparently by and from the yeomen themselves.<sup>150</sup> To induce well-to-do freemen of the merchant company to undertake duties which were both tedious and expensive, it was usual to reward members who had served as wardens substitute by soon afterwards elevating them, with lower fees than usual, to the “livery” or governing body of the company. In spite of this, there was often no little difficulty in inducing men to serve. On one occasion, in 1596, the elected substitute “did keep his house so close and walk so secretly, so that the officer could not come where he might lawfully carry him away;” and the company was driven to apply to the mayor for a writ for his apprehension.<sup>151</sup>

We need not suppose that either the name or the organization of the journeymen’s association as we find it in 1569 were of recent date. Among the London drapers there had been an association known as “the bachelors’ company,” and ruled by four wardens, as long before as 1493.<sup>152</sup> So also in the records of the ironmongers the term “company of the bachelors” is found in 1512 for what was also known, both before and after, as “the yeomanry.”<sup>152a</sup>

There are still traces of the action of the journeymen tailors’ society in defence of the interests of its members

against the masters. Thus in 1562 the bachelors (doubtless in their corporate capacity) are seen petitioning the merchant company for leave to take steps to secure the repeal of the clause concerning the number of apprentices in the statute 5 Eliz. c. 4. But the fact that such a petition was necessary shows that their society had lost all independent status, and that it was held in strictest subordination to the great company. Hence it is not surprising to find that the journeymen could no longer be counted upon to make voluntary contributions to their society; and that it was necessary for the authorities of the merchant company to order, in 1578, that "every servant or journeyman free of the city, and a brother of this mistery," should pay a small "quarterage" (or quarterly due) of twopence to the substitutes.<sup>153</sup> If any further illustration were needed of the absolute loss of autonomy in the bachelors' company, it may be found in the order of the court of the merchant taylors in 1585, that "£400 should be borrowed of the Wardens' Substitute, to be taken out of their treasury, *never to be paid them again*, but to be employed and bestowed upon . . . the building of the hall."<sup>154</sup>

The efforts of the bachelors' company on behalf of its members were hereafter directed almost entirely towards inducing the merchant company to use its influence in their interest. In 1601, for instance, they asked for its assistance against foreigners over-running the trade, and towards procuring government clothing contracts for certain master tailors, who were ready, if they got them, to employ a number of poor freemen.<sup>155</sup> But the Livery, or governing body, of the merchant taylors' company was now composed to a large extent of wealthy city merchants, who were not tailors at all, and who were not inclined to defend very warmly even the interests of the master tailors. The whole

connection between the tailoring business and the merchant taylors' company was coming to be a mere survival; and the relations between the merchant taylors and the bachelors' company necessarily tended to become more and more uncomfortable. In 1608 there was a quarrel between the wardens substitute, representing the merchant taylors, and the sixteen, representing the bachelors. The substitutes charged the sixteen with spending too much in taverns. They replied that, at any rate, they had driven a thousand foreigners out of the craft, and that they had brought about a large increase in the annual collections for poor members.<sup>156</sup> However, in 1608, the merchant company issued new ordinances for their government, which mark a still further stage in the transformation of the bachelors' company. Their treasury was now to be put altogether in the hands of the substitutes, and their accounts were to be audited by two of the wardens of the merchant company.<sup>157</sup> Henceforward the bachelors' company was little more than the machinery for the distribution to poor freemen of the alms of the merchant company, which were, however, supplemented by the quarterage of the bachelors themselves. In 1623 ordinary freemen ceased to be summoned to the quarterly courts, and the tailoring element in the councils of the merchant taylors' company disappeared. In 1642 the bachelors ventured to ask that at least two of the substitutes should be practical tailors, but in vain. In 1645 the substitutes and the sixteen were ordered to reduce the number of the recipients of their charity to three hundred, and to fill up vacancies only with the co-operation of a committee of the court of the merchant taylors. Finally, in 1661, the merchant taylors felt they could take the last step; and by their sole authority they put the bachelors' company out of existence. They refused to

swear in new substitutes, transferred to themselves the distribution of charity, and took the officials of the bachelors' company into their own employ. Their action was upheld on appeal by the Court of Common Council of the city. Then the old members of the bachelors' company appealed to the Privy Council. The matter dragged on for many years, and by the time most of the complainants had become grey-headed, their petition was referred to the law offices of the Crown for an opinion. From that day forward nothing more was heard of it.

The yeomen's fellowship, or bachelors' company, of the tailors, was thus no merely momentary movement, but an organization whose recorded history covers a period of two hundred and eighty years, stretching from the reign of Henry V. to that of William III. It began as a voluntary banding together of the journeymen in the form of a religious fraternity; and in this form it was evidently disliked and feared by the master craftsmen, as an encroachment upon the jurisdiction of the masters' company, and, probably still more, as an instrument for securing higher wages. The masters, even with the aid of the civic authorities, were unable to suppress it; so after a time they changed their policy, and sought to bring it under their own supervision. The stream proved to be more easy to divert than to dam up. The journeymen were conciliated by permission to hold their own meetings for festivity or religious offices; while on their side the masters' company was able to relieve itself to some extent of the duty of providing for sick or distressed journeymen.<sup>158</sup> The bachelors' company soon ceased to be a serious danger to the position of the masters; although it was long before it became a merely subordinate organ of the masters' company. But it was more and more overshadowed by the wealthy company to which it was



attached; until at last it lost all independent initiative. It became a bit of mere antiquarian formalism, and the workmen lost nothing by its abolition.

In the case of the tailors, we have the unique good fortune of being able to follow the history of the journey-men's society over a considerable period. But some of the other instances, where like associations are traceable, are equally instructive in other respects; and the bare recital of our information will be sufficiently suggestive.

The "ordinance, articles, and constitutions," which were "ordained and granted" by "the worshipful masters and wardens with all the whole company of the craft of Blacksmiths of London, to the servants of the said craft," in 1434, have been preserved, owing to the fortunate circumstance that they were placed among the records of one of the ecclesiastical courts of London.<sup>159</sup> These articles are little less than a series of concessions made by the company to "the brotherhood of yeomen." "Every servant shall pay a quarter 2*d.* to his brotherhood, and every sister 1*d.*" New members are to pay "for their incoming" 2*s.* A stranger coming to London "to have a service in the craft" is to serve two weeks, apparently on probation, and then "to make his covenant" (for) "three years," and "to have for his salary, by year, 40*s.*:" servants already employed were evidently to have the same rate of wages. "From henceforth, when any stranger cometh to London to have a service, any of the servants (that) knoweth that he will have a service shall bring him to a master to serve, and to warn the warden that is their governor (*i.e.* of the yeomen) that he may be at the covenant-making"—a practice precisely similar to that in modern trades unions where a man seeking work sends up his membership-card to one of the workmen, that he may inform the employer or his foreman.

The object to-day, as it was four centuries ago, is to compel every one who seeks for employment to join the association. The "servants" are to gather together "in their clothing of their brotherhood" at seven o'clock, wherever they think necessary (in order, apparently, to have their own mass first), so that they may join the masters at nine, and walk before them to hear their mass. The "wardens of the brotherhood of yeomen" are to have the correction of the faults of the servants; and if "any servant henceforward be found false of his hands, or in any other degree, at the first default he is to be corrected by the overseer that is ordained to the brotherhood of yeomen, and by the wardens of the same," and pay a fine, whereof half is "to turn to the box of the masters, and half to the box of the yeomen." For the second offence, he is to be put out of the craft for ever. "Any brother," moreover, "that forsaketh their clothing shall pay a fine to the box of the yeomen." It is accorded, also, that "if there be any brother that telleth the counsel of the brotherhood to his master (master's?) prentis, or any other man, he shall pay to the box 2s., half to the masters, and the other half to their own box." Almost the only article which recognizes the authority of the company proper over the servants is that which provides that there shall be a power of appealing from the wardens of the brotherhood to the master at the head of the whole craft. The declaration with which the document begins, and which is therefore, we may conjecture, one of prime importance, is that the company of the craft "hath ordained and granted to the servants . . . that they should come in to the brotherhood of St. Loy, as it was of old time." This may either mean a permission to the servants to have their own brotherhood, or the repeal of a rule excluding the servants from the masters' brotherhood. The union of the

two ranks is to be maintained by compulsory attendance at the periodical "common dinners." Even as to the bill of fare, there had not reigned complete harmony; for, in the concluding article,—one of a half-dozen drawn up by the yeomen, and appended to the earlier clauses,—it is laid down that "at the quarter-day we will have baked conies, as it was bygone; and what master that breaketh this ordinance every piece shall pay 6s. 8d., half to the masters' box, and half to our box." Sixty-eight names are appended to the document, including those of the wardens of the yeomen, so that it is evidently of the nature of a compact between two parties. How full of interest it is in many other matters besides that immediately before us need hardly be pointed out; for instance, it appears from it that apprenticeship was not yet a necessary preliminary to employment. For the history of journeymen's societies it is of vital importance, since it furnishes us with definite information concerning a stage in their development, which in other crafts we can only supply by conjecture. Thus, among the tailors, there was first a period (1415–1417) when the journeymen's association maintained itself in defiance of the masters; and then, thirty years after, we find it a dependent adjunct of the company. Here, in these ordinances of the blacksmiths, we seize the very moment of transition from a turbulent and unrecognized independence to an acknowledged position by the side of, and loosely subordinate to, the masters' company. It is not an overbold conjecture that most of the yeomen's companies which we come across began in the same way with voluntary combination in the teeth of the masters and the civic authorities, and either by a formal compromise, as in this instance, or in some other way, reached the stage in which in most cases we first meet with them,—a stage in which they are merely subordinate

organizations, convenient as means of providing for the relief of poor journeymen.

To take now the other instances in order of time. In 1468 we come across a mention of "the fellowship of yong men of the Crafte" of carpenters.<sup>160</sup> In 1493, in a general numbering of the Drapers' Company, we find that "in the clothing" there were 114, "of the Brotherhood out of the clothing" 115, and "of the Bachelors' Company" 60.<sup>160a</sup> In 1497 the "yeomanry" of the craft of ironmongers petitioned the authorities of the craft to allow them to choose two "rulers" every year, who should have power to collect 8*d.* yearly "of every brother, covenant and other." This was apparently granted; and in the ordinances of the craft drawn up next year there was a clause that "the wardens shall not see the yomanry decay, but every year to have one new maister chosen to the old, according to their grant, in pain the wardens to lose each of them 20*s.*"<sup>160b</sup> The organization reappears in 1512 as "the company of the bachelors;" although it was to "the wardens of the yeomenry" that a few years later a munificent benefactor presented a hearse cloth.

That there were, also, companies of yeomanry among the fishmongers in 1512, and among the armourers in 1589, is evidenced by bequests made to them in London wills.<sup>160c</sup> There is, likewise, a mention of the warden of the yeomanry among the clothworkers as needing to be chosen by the craft authorities, in certain undated ordinances of that company.<sup>160d</sup> But more significant than these is the record of an "award" made in 1508 by the lord mayor "as to the great variance and discord between the wardens and other the livery of the Craft" of founders "on the one part, and the Yeomanry on the other part," although there is here no mention of a fellowship. The discord had arisen concerning the custody of certain

plate and money belonging to the craft; and the mayor orders that it is to remain in a chest, whereof the keys shall be placed in the hands of the wardens. But it is laid down, also, that "yearly, as well at the elections of the new wardens, as at the time of making up the old wardens' accompts, . . . the wardens . . . shall call unto them vi of the yeomanry which they shall think the most notable and convenient, to hear the old wardens' accompts, *forasmuch as they be members of the said fellowship.*"<sup>160e</sup> That the lord mayor should have to remind the rulers of the craft that the yeomen are members of the same fellowship is significant. It is a protest against that tendency to edge the yeomen out of the masters' companies, which would seem to have been not uncommon at this period. Thus in Hull the journeymen weavers were excluded from taking any part in the election of the officers of the company as early as 1490; while the contemporary ordinances of the glovers expressly limit the right of voting to the "maisters."<sup>160f</sup>

Yet no doubt in London the strictly economic evolution was complicated by the action of other forces. The position of the journeymen was there affected not only by the social separation between themselves and the master craftsmen, but by the additional circumstance that the greater companies gradually ceased to have more than a nominal connection with the industries from which their names were derived. It might be supposed that it was this last fact which was the real explanation of the history of the bachelors' company among the London tailors. Such an instance, therefore, as that presented by the shoemakers of Oxford, where no such further complication can have presented itself, is of the utmost interest as showing that the London conditions were not so exceptional as they might at first appear.

From the record of an award made in 1512, between the

shoemakers and their journeymen in Oxford, we learn that there had of late been serious disputes between the two parties.<sup>161</sup> The details of the dispute are not given; except that it turned, in part, upon the possession of a certain box, which is spoken of as "the box of the journeymen." Doubtless this was a box to receive subscriptions and furnish alms for sick or impoverished members. It is important, moreover, to notice that the contending parties are described as, "John Hynaym, master of the craft of cordeners in Oxford, and all the fellowship or *company of masters* of the same craft of the one part, and John Taillor and other journeymen of the same craft of the other part." The phrase which describes the fellowship of shoemakers as "the company of masters," is an unconscious indication that the journeymen were not regarded as members of it, but only as dependants upon it. The arbitrators were one of the bailiffs of the city, together with another leading citizen. Whether their award was a victory for either party, or a compromise, we cannot feel sure: for while on the one hand the leader of the journeymen is to go to "the warden of the masters," and "desire him in the name of all the masters to be good masters unto them;" on the other hand, "the box of the journeymen" is to be placed in the hands, not of the masters, but of one of the bailiffs and the town clerk, "provided always that if *the wardens of the journeymen* have need of any money for the business of the said occupation, then they to have such a sum out of the box as shall be thought most expedient for that time, *as it hath been used among them from times past.*" It is evident that the journeymen had for some time been organized in a fellowship with regular officers. The award further lays down that the journeymen shall have a yearly assembly on the Sunday before Michaelmas, and that an audit of their accounts shall take place in the presence of the bailiff and

town clerk who have charge of the box. Journeymen are to be allowed to borrow from the box until the next "accompt," on furnishing a sufficient gage, or surety. We gather that this was only the last of a series of settlements: for "certain indentures" previously made between the parties, of the contents of which unfortunately nothing is told us, are now declared void, and it is directed that "a new pair of indentures" should be made between them.

This is the fullest account we have of a compromise between the masters and the journeymen outside London; but a somewhat similar settlement, also brought about probably by the municipal authorities, seems to have taken place at Coventry between the master weavers and their journeymen, more than half a century earlier.<sup>162</sup> There the journeymen are said to have yielded to the masters on the important point of the number of apprentices, while on the other side the masters conceded that the position of master should be open to every journeyman who could pay 20s., and the journeymen were allowed to have their own fraternity. We possess, moreover, the ordinances agreed upon by the authorities of the mystery of tailors of Bristol in 1570, for the regulation of their journeymen, from which it appears that there also the journeymen had wardens, and a common chest for the relief of the poor, and, what is still more like modern conditions, that if a man were expelled from the company by the wardens of the yeomen, and a master employed him, that master was to be fined.<sup>162a</sup>

Let us look back and enumerate the instances of journeymen's associations that have as yet been discovered in England. They are, in London, the saddlers (1383-1396), the cordwainers (1387), the tailors (1413-1696), the blacksmiths (1435), the carpenters (1468), the drapers (1493-



1522), the ironmongers (1497-1590), the founders (1508-1579), the fishmongers (1512), the cloth-workers, and the armourers (1589); in Coventry, the weavers (before 1450), in Exeter the tailors (before 1512), in Oxford the shoemakers (1512), and in Bristol the tailors (1570). One of these instances,—that of the weavers of Coventry,—may be explained as due to the supersession of the gild by the domestic system; while some of the others may be attributed to the separation between the masters' company and the industry, as in some of the London cases; but all cannot be so explained. There remains enough to suggest that some such formation was a normal stage in later gild history, in England as well as on the Continent. We may expect with the further publication of municipal records to come across many other examples. Yet the very fact that their existence in England has been so completely forgotten is enough to show that they can never have played here so large a part as on the Continent. No English statutes were called forth by their proceedings; while in Germany they were the occasion of a whole series of imperial and territorial decrees.<sup>163</sup> Their relatively scantier appearance was no doubt due to the absence in England of some of the severest restrictions upon mastership, such as the necessity of a period of travel; for it is to this rule that the rapid spread of journeymen's fellowships in France and Germany is usually attributed.<sup>164</sup> But the main explanation is to be found in the fact that industrial activity was far less developed in England than in the cities of France and Germany. The extent of production and the number of men engaged were much smaller; and accordingly the reasons for the formation of journeymen's associations were not so strong, and the body of men who could attempt it not so large.

§ 36. To complete our view of the subject, it remains to

notice two further instances of the way in which differences in material prosperity reacted upon and modified gild institutions.

The first of these was the growth within the several companies, even among the master craftsmen, of an oligarchic system of government, which gave special rights,—balanced, indeed, to some extent by special duties,—to a select body of the members, and took the direction of the affairs of each society out of the hands of the general assembly of its freemen. This is most strikingly illustrated by the position of the *Livery* within the London companies, and by the rise of the Court of Assistants; but it is probable that a parallel movement took place in the larger companies in all the other industrial centres. It was a very natural result of the wide differences in wealth which a growing population and a growing trade could not fail to bring; but there was another reason in the constitutional history of the towns. Wherever the rule had been established that, in order to obtain or retain the civic franchise, every one must be admitted to one of the organized crafts, a number of persons,—either the representatives of the old land-holding families of the town, or merchants previously outside the craft societies,—must have made their way into the mysteries, who were the social superiors of the great majority of their fellow-members, and who were pretty sure, after a time, to get a large share of influence in their several companies. Thus the political success of the crafts tended to destroy their democratic character. Although the predominance of the gild system in town government was not so complete in England as on the Continent,—*e.g.* in Basel, where this reflex influence on the gilds has been recently pointed out by Geering,<sup>165</sup>—yet it was so considerable that we can hardly leave this factor out of consideration.

The distinction in London between ordinary freemen and brethren of a higher grade arose from the usage of wearing *liveries* or uniforms of special hue, which was a common feature in all the associations, whether secular or religious,<sup>166</sup> of the fourteenth century. Chaucer describes his "fair burgesses"

" . . . an Haberdasher and a Carpenter,  
A Webbe, a Deyer, and a Tapeser,—

men who were all prosperous enough to be aldermen,—as

" . . . all y-clothed in o (one) livere  
Of a solemne and great fraternite;,"<sup>167</sup>

and it will be remembered that the associations of journeymen, towards the other end of the industrial scale, also dared to assume peculiar liveries at their annual meetings.

Constitutional historians have sufficiently dwelt upon the importance of liveries in the history of the later Middle Ages. The grant of liveries by the great lords to their dependants created serious dangers to public order; since it led to the formation of bands of lawless retainers, ever ready to overawe the law-courts, and maintain by violence the cause of their masters.<sup>168</sup> A long series of statutes, from the reign of Richard II. onward, were directed with but scant success against this evil; for it was not until the accession of Henry VII. that an administration was found strong enough and resolute enough to put the statutes in force. Now, it has usually been supposed,—*e.g.* by Herbert, the historian of the Livery Companies,<sup>169</sup>—that the London companies, so far as they were affected by this legislation, were so only because the popular dislike of liveries drew all liveries within the scope of the statutes, however innocent they might be. But upon looking more closely at the statutes and at the petitions of the Commons, it becomes apparent that the matter is

not quite so simple. There were evidently "wheels within wheels."

In the parliament of 1389, the Commons presented, among others, two petitions,—the one directed against the wearing of the "signs" or emblems of lords, the other against the grant of liveries. The second ran as follows: "As to liveries of cloth, the Commons pray that no lord, temporal or spiritual, and no other of lesser estate of whatsoever condition he may be, give livery to any except to the servants of his household, his relations or kin, his steward, his council, or the bailiffs of his manors. And also that no livery shall be given under colour of gild, fraternity, or any other association, whether of gentry and their servants or of the commons; but that all shall be put down within ten months after this Parliament. And that if any take livery contrary to this ordinance he shall be imprisoned for a year without redemption, and besides this, the said gilds and fraternities shall lose their franchises, and those gilds and fraternities which have no franchises shall forfeit 100*l.* to the king. And that proclamation shall be made among all the boroughs and towns within the realm, and this with all the haste that can well be made. And that no craft (mestier) shall give livery to any against this ordinance, on pain of 100*l.* to pay to the king."<sup>170</sup>

To both these petitions the king gave the procrastinating answer, which had not yet come to be regarded as a direct negative: "The king will consult with his council, and will ordain such remedy as shall seem to him best for the ease and quiet of his people." Nevertheless, after the parliament had been dissolved, an ordinance was issued imposing restrictions on the grant of liveries.<sup>171</sup> Lords were in future only to grant liveries to their actual domestics, or to persons indented to them for life; and no person under the rank of banneret

was to give any livery at all. Thus the government showed itself ready to carry out the petitions of the Commons so far as they concerned the lords; but of the liveries worn by fraternities, gilds, or misteries not a word was said. Looking at the general tenor of the ordinance, it could scarcely be argued that the adoption of a livery by the common agreement of an association fell under the prohibition to *give* liveries. We know that among the grocers and brewers, and probably in the other crafts also, the members of the fraternity had to pay for their own liveries, although, as a matter of convenience, the wardens bought the materials and got the uniforms made.<sup>172</sup>

Nevertheless, this was the interpretation which the "Commons" put, or pretended to put, upon the ordinance; and three years later (1392-93) they returned to the charge, beginning with a compliment to the council: "Whereas it was ordained by your most wise council that no one should bear livery or sign of any lord within the realm . . . nevertheless, many Tailors, Drapers, Shoemakers, Tanners, Fishmongers, Butchers, and other Artificers . . . bear liveries and signs within the realm for the sake of maintenance,<sup>173</sup> and to oppress your poor Commons." They beg, therefore, "that remedy may be ordained in the present Parliament, . . . and that the justices of peace and of assize throughout the realm may have power to enquire of all such Artificers, Victuallers, and others who bear such liveries and signs."<sup>174</sup> The answer of the king, as it appears in the statute book, was, again, that no one except actual domestics should bear the livery of *any lord*, and that the justices should have power to enquire thereafter.<sup>175</sup> Again, not a word about the crafts. The same enactment was repeated in identical terms in 1397;<sup>176</sup> at greater length, but to the same effect, by Henry IV., in 1399<sup>177</sup> and 1401.<sup>178</sup> At last, in 1406, the

government, instead of remaining silent as to the crafts and other fraternities, expressly exempted them from the law against liveries by the addition of the clause: "the gilds and fraternities, and also the people of misteries that be founded and ordained to a good intent and purpose, only except."<sup>179</sup> This was repeated in 1411;<sup>180</sup> and in 1468 was modified only by the addition of a newer term,—“gild, fraternity, or *mystery corporate*.”<sup>181</sup>

In face of these statutory provisions, it can hardly be supposed, as Herbert would have us think, that the companies had to obtain express license from the king before they could wear liveries. Indeed, Stowe, to whom in 1598 many documents were accessible that have since disappeared, expressly declares his disbelief in any such obligation: “I read not of licenses by them procured for liveries to be worn, but at their governors’ discretion to appoint, as occasion asketh, some time in triumphant manner, some time more mourning like; and such liveries have they taken upon them as well before as since they were by license associated into brotherhoods or corporations.”<sup>182</sup>

The history of class relations within English towns has been so little investigated that it is hardly possible at present to come to a definite conclusion as to the import of the petitions just quoted. But if, as is very probable, they were inspired by the burgesses in parliament, they would confirm the conjecture of Dr. Stubbs, suggested to him by other indications, that “the strife between the governing bodies” in the towns “and the craft gilds was not yet decided.”<sup>183</sup> The concluding years of the fourteenth and the early years of the fifteenth century were probably the period when the final struggle was being fought out between the organized misteries and the classes that had previously ruled.<sup>184</sup> The governing classes saw

in the liveries of the misteries, and were right in seeing, a means by which their members were bound more closely together, and their united action rendered more forcible; and hence they sought to bring them under enactments originally designed for an altogether different purpose. Richard II., who, as Dr. Stubbs supposes, "had probably conceived the idea of appealing to the," or rather a "lower stratum," temporized, and went through the comedy of repeatedly granting what the burgesses did not ask. But within a few years after Henry IV. had assumed the government, the misteries had become so powerful that there was no longer any danger to the government in recognizing that *their* liveries meant something very different from the liveries borne by lords' retainers.

It is a striking example of the rapid change which prosperity brought about within the misteries, that, before the end of the fifteenth century, what had been the mark of a "democratic" movement became the emblem of a civic aristocracy. The change was a very natural one. At first all the members of each fraternity would seek to provide for themselves the chosen livery of their company; from the example of the journeymen, it is evident that such liveries could not have been costly. But with the increasing extravagance of costume which set in with the reign of Richard II.,<sup>185</sup> and the growing wealth of the more influential brethren of the crafts, more expensive liveries came to be ordained, beyond the means of many of the poorer freemen. Thus, in 1422, on the occasion of a procession to receive Henry VI., "the brewers of London ordered that all householders (*i.e.* masters) of the company, and all the 'breweres men' of 40s. a year (*i.e.* with that annual wage) should provide clothes for themselves, under fine of 20s.; but many neglected, and yet were let off



easily."<sup>186</sup> Moreover, the duty of attending at civic ceremonies was one which involved no little loss of time; so that the poorer brethren were ready enough to leave to the richer the duty of representing their companies with due splendour on public occasions. Among the drapers, in 1493, excluding the bachelors' company of sixty members, there were 229 full members, of whom only half (more exactly, 114) were "of the craft in the clothing," while the rest are described as "of the brotherhood out of the clothing."<sup>187</sup> And before very long,—the exact period it is difficult to determine, but certainly, for most of the crafts, within the sixteenth century,—the *livery* became a superior grade to which the more substantial freemen were admitted as an honour by the Court of Assistants, upon the payment of heavy fees.<sup>188</sup> In some,—apparently in the greater,—companies, there remained a number of master craftsmen outside the ranks of the livery; while in others,—apparently, as a rule, the smaller companies,—the livery came to include all, or almost all, the employers.<sup>188a</sup> Henceforth the liverymen monopolized most of the social pleasures associated with their company; and when they were in distress they benefited more largely than other freemen from the endowments for charitable purposes. In consequence of an Act of Common Council in 15 Edward IV., which ordered the masters and wardens to come to elections with "the honest men of their misteries in their best liveries,"<sup>189</sup> the liverymen obtained an exclusive right to the franchise in the election both of the chief civic magistrates, and also of members of parliament. It must, however, be remembered that upon the liverymen fell the chief burden of the mayor's assessments for the defence and provisioning of the city.

But although the liverymen had great dignity and many

privileges, even they did not retain the government of the company in their own hands. It passed from them to a still more select body, the Court of Assistants; which, beginning as a sort of informal committee composed of the wealthier brethren in the livery, especially such as had served the higher offices in the company, became a limited co-optative council, well-nigh absolute in the affairs of the society. Among the merchant taylors, the existence of the Court of twenty-four Assistants is distinctly visible some time before 1502;<sup>190</sup> and the ordinances of 1507 conferred upon this Court the right of electing to all offices in the craft. Much the same course of events may be traced in the other companies; though in the smaller ones the process may have been slower and the powers of the Court less extensive. The first recognition of the institution in the charters of the companies is to be found in that granted to the stationers by Philip and Mary.<sup>191</sup> The history of the London companies in this respect could doubtless be paralleled from that of similar bodies in other English towns, were the evidence accessible. We know, for instance, that in Bristol the election of the aldermen of the weavers "had become vested in the Thirteen principal men of the craft."<sup>192</sup> This is curiously similar to the custom in some of the guilds of Basel, where "the old and the new Six" elected each other in alternate years as governing council, and joined together with the old head of the craft (thus thirteen in all) to elect the new master.<sup>193</sup> Upon the Continent some such aristocratic government of the guilds became very general. The arrangement in some of the crafts in Paris, with its division of members into *anciens*, *modernes*, and *jeunes*, and its co-optative electoral council,<sup>194</sup> reproduced almost exactly the conditions in London; and is another indication of the general similarity of English and continental development.

One other result of disparity in wealth cannot be left unnoticed, though the more complete discussion of its causes belongs to another section. This was the appearance in London of a distinction between the twelve "greater" and the "lesser" companies,—some fifty or more in number.<sup>195</sup> From the twelve companies the mayor was exclusively chosen; their wardens alone attended him when he acted as chief butler at coronations; they took precedence of the rest in all civic ceremonies; and they alone contributed to the repair of the city walls.<sup>196</sup> Early in the seventeenth century, their power was consolidated by the formation of the Irish Society, in which alone they took shares.<sup>197</sup> The twelve companies were those of the Mercers, Grocers, Drapers, Fishmongers, Goldsmiths, Skinners, Merchant Taylors, Haberdashers, Salters, Ironmongers, Vintners, and Clothworkers. The majority of these,—the Mercers, Grocers, Drapers, Fishmongers, Skinners, Merchant Taylors, Haberdashers, and Ironmongers,—were composed almost entirely of persons engaged in trade; the Mercers, Grocers, and Drapers especially in foreign trade. The Goldsmiths belonged to a craft wherein greater capital and skill were needed than in most manual occupations. The Vintners owed their prosperity to the habits of the nation and to the import trade which they carried on; while the appearance of the Clothworkers in the number testifies to the rise of the cloth industry to importance in the fifteenth century. On the whole, the supremacy of the twelve companies represents the larger capital which was requisite, and the greater profits which were possible, in commerce as compared with handicraft. How overwhelming was their preponderance in wealth over all the other companies (with the exception only of the Leathersellers) may be readily seen from the assessments for various civic purposes in the sixteenth century.<sup>198</sup>

To what extent these greater companies were originally associations of peddlers, or small shopkeepers, of the same social position as the men in the artisan crafts, who had gradually pushed their way into wholesale and foreign trade, it is at present impossible to say; nor to what extent, on the other hand, they had been formed from classes that stood socially above the older craft guilds. Judging from the analogy of continental cities,<sup>199</sup> the latter of these two explanations of their origin is probably valid for several of the companies.

The pre-eminence and privileges of the twelve companies in London are closely parallel to similar phenomena elsewhere; *e.g.* to the position of the *Arti Maggiori* in Florence,<sup>200</sup> of the *Six Corps de Métiers* in Paris,<sup>201</sup> and of the *Herrenzünfte* in Basel.<sup>202</sup> And similar conditions probably appeared in other English cities. The Elizabethan Statute of Apprentices enacted that, while in many common handicrafts boys could be taken as apprentices even if their fathers had no freeholds, it should "not be lawful to any person . . . using any of the Misteries or Crafts of a Merchant trafficking by Traffick or Trade into any parts beyond the Sea, Mercer, Draper, Goldsmith, Ironmonger, Imbroderer or Clothier that doth . . . put Cloth to making or sale, to take any apprentice," except his own son, unless "the Father or Mother of such Apprentice shall have . . . Lands, Tenements, or other Hereditaments of the clear yearly value of forty shillings of one Estate of Inheritance or Freholde."<sup>203</sup> This rule probably did but correspond to a gradation of classes already existing; and where such a gradation did not already exist, the enactment would tend to create it.

§ 37. In the preceding sections, the history of the organized crafts has been traced down to the middle of the

sixteenth century. Before turning to their subsequent history, we must discover what changes, if any, they underwent during the period of the Reformation. It will be necessary to do this in some detail, because there is a widely accepted opinion that certain legislation in the reign of Edward VI. brought the life of the craft gilds to an untimely conclusion, and made a violent break in the continuity of industrial development.

To exhibit the true nature of the Edwardian legislation, it will be worth while to make a digression, and look at a number of institutions which may seem at first sight to have nothing to do with our subject, but which are, nevertheless, closely associated with one side of the craft organization.

From early mediæval times, great men had founded or contributed to the foundation of monasteries, in order, among other motives, that their souls might enjoy the spiritual benefits which the prayers of those whom they thus assisted were expected to secure. But, in the later Middle Ages, another method was devised for securing these benefits; and this a method which could be employed by nobles of the second rank, by wealthy squires and opulent citizens, as well as by great lords. This was the establishment of *chantries*. To endow a chantry, all that was needed was to set apart some revenue-bearing property in the hands of trustees, sufficient to maintain a priest who should perform mass at stated periods in commemoration of the founder.<sup>204</sup> In most instances, the endowment was not much more than enough to maintain a single priest; and the special masses were sung at one of the altars of the parish church wherein the "chantry," or singing-service, had been founded. But many foundations were more extensive, and provided for more than one priest; and special chapels within the churches

were often erected for the performance therein of the sacred offices.<sup>205</sup> Sir John Fastolf, whose will is dated 1459, even established, "within the great mansion at Castre by him lately edified, a college of vi religious men, monks or secular priests, and vi poor folk," for purposes which were essentially those of a chantry,—“to pray for his soul, and the souls of his wife, his father and mother, and other that he was beholden to, in perpetuity.”<sup>206</sup>

To these chantries some small endowment was often attached for the provision of alms. Thus, out of some five and twenty chantries in Bristol, fourteen were certified by the Commissioners of Edward VI. as spending a portion of their funds “in relieving of the poor people yearly.” Among these fourteen it may be roughly estimated that, on an average, £3 6s. was paid to the “incumbent” for “his living in the service,” and 16s. to the poor.<sup>206a</sup> The primary object of this endowed almsgiving was precisely the same as that of the chantry itself,—the good of the founder’s soul. Almsgiving, as a deed of mercy, was itself regarded as meritorious; and the recipients were also expected to give their prayers in return.<sup>207</sup> Many a testator would have echoed the request of Fastolf that his goods might be so faithfully distributed in “almsful deeds and charitable works” that he might obtain “the more hasty deliverance of his soul from the painful flames of the fire of Purgatory.”<sup>208</sup>

It has already been remarked that in the *later* Middle Ages the term “gild” was almost exclusively attached to fraternities or brotherhoods, which, although they might in some cases be composed of persons connected with particular misteries, were primarily intended for religious purposes. It has, indeed, been usual with some writers to draw a distinction between “social” and purely “religious” gilds.

It has even been maintained that gilds were, as a rule, "lay bodies, and existed for lay purposes,—the better to enable those who belonged to them rightly and understandingly to fulfil their neighbourly duties as free men in a free state." It is allowed that it "was very general to provide more or less for religious purposes," but "these," it is urged, "are to be regarded as incidental only."<sup>209</sup> But if, instead of dwelling exclusively on such of their ordinances as relate to their annual festivities and to the assistance of poor members, we attempt to grasp their activity as a whole, and bring it into relation to the rest of the life of the time, we shall come rather to the opposite conclusion that almost all, if not all, the "gilds" (in the sense of the later Middle Ages) were "religious," and that religious purposes were their primary ones.<sup>210</sup> They had, of course, their periodical assemblies, which were the occasion of much feasting and drinking; though the drinking was itself in many cases a means of raising funds for religious purposes.<sup>211</sup> They provided for the giving of aid to poor members; but, as will be shown more at length in a later section, the aid was comparatively small, and was looked upon rather as the giving of alms by the rest of the members in order that they might acquire spiritual benefits than as a due return for the past subscriptions of impoverished members.<sup>212</sup> It was, indeed, exactly parallel,—except that it was given only to members,—to the alms distributed by chantry priests; and it can hardly be maintained that the chantries were not primarily religious institutions.

The object for which a gild was primarily formed was, therefore, the securing of certain spiritual benefits. In many instances this was expressly stated in their "points," or "articles." When returns were called for by the government, in 1389,—a measure dictated, no doubt, partly by a



dislike of the journeymen's associations, which were trying to shelter themselves beneath the cover of religious guilds, still more, probably, by a desire to limit the amount of land passing into mortmain,—some of the guilds expressly declared their object to be the maintenance of a light before such and such an altar.<sup>213</sup> Others aimed at “finding a priest.”<sup>214</sup> Even where the object is not clearly defined, the rules providing for the solemn attendance of members at the obsequies of the brethren, and the common provision of 12, 20, 30, or even 60 masses for the soul of a departed member,<sup>215</sup> sufficiently indicate the character of the fraternities.

No one phrase could adequately sum up all the aspects presented by institutions which were so closely interwoven with the life of the age, and varied so much in details from place to place and from time to time. But on the whole, the later “guilds” may be fairly described as simply *co-operative chantries*. They were organizations to secure the same ends as chantries were devised for; but created for the most part by the burgher middle classes which were not wealthy enough to establish foundations for their individual benefit.<sup>216</sup>

From the towns the movement spread to the country; where its progress probably marks the rise of what may be called a village middle class, consisting of more or less prosperous freeholders, copyholders, and customary tenants. How wide and general it was may be illustrated from two facts. In many of the parishes of Somerset,—which we have no reason to suppose differed in this respect from parishes elsewhere,—there were from six to a dozen guilds or fraternities, each for the purpose of a separate “devotion,” with its own “store,” and audits, and feast-days.<sup>217</sup> And in the single county of Norfolk a list, which is manifestly imperfect,<sup>218</sup> returns as many as 909 guilds.<sup>219</sup>

As the middle classes in the towns became more pros-

perous in the fifteenth century, and the older fraternities were enriched by the bequests of their members, the more flourishing gilds grew more like chantries. Fraternities were sometimes established for the express purpose of maintaining chantries:<sup>220</sup> and opulent persons frequently founded chantries, and left them under the care of the fraternity to which they belonged. In cases of this latter kind, the fraternity were usually asked to be present at the services of the chantry, and were given a share in the spiritual benefits accruing therefrom.<sup>221</sup> Gilds and chantries came thus to be very closely connected; and they were often confused in the public mind. If, therefore, the Commissioners of Edward VI. did not always succeed in keeping the two institutions perfectly distinct, it is almost certain that their returns did but reflect a prevailing looseness of language, and that they need hardly be suspected of intentional misrepresentation.<sup>222</sup>

§ 38. When the Reformation began in England, every craft included within itself, or had attached to itself, institutions or usages of the nature of religious fraternities. We may, for convenience, and subject to explanations to be given later, speak of this as *the fraternity aspect* of the craft organization. And we may so far anticipate the conclusions of the argument which follows as to lay down that what the legislation of Edward VI. affected was the fraternity aspect of the crafts and that alone.

The manner in which the religious usages were connected with the crafts varied very considerably, although the general result was in most cases much the same. The origin of these religious features, moreover, is not altogether free from obscurity. The earlier craft gilds,—like the early merchant gilds,—would seem to have been almost, if not entirely, secular in their objects and policy;<sup>223</sup> resembling

in this the early *Aemter* and *Officia* of the Continent.<sup>224</sup> But with many of the crafts which were late in acquiring a recognized corporate existence, a voluntary religious brotherhood was, as we have seen, the first form of organization they possessed; and it was this brotherhood which was able afterwards to secure powers of supervision over the daily labour of its members. This was the case with many of the companies of London, such as the drapers,<sup>225</sup> taylors,<sup>226</sup> mercers,<sup>227</sup> haberdashers,<sup>228</sup> and armourers;<sup>229</sup> it was the case, also, as we shall see later, with the important company of taylors at Bristol.<sup>230</sup> The sequence of events in such cases may be described in the language which an eighteenth-century historian uses of the corporation of Cordiners at Edinburgh: they "were at first erected into a Fraternity by a charter from the Town Council of Edinburgh . . . in 1449, *on a religious Account*; for each Master of the Trade who kept a Booth or Shop within the Town was enjoined to pay One Penny Scottish weekly, and the several Servants of the Craft an Halfpenny, towards the support of their Altar of Crispin and Crispinian, within the . . . Church of St. Giles . . . and Maintenance of the Priest who officiated thereat. And by a second Seal of Cause . . . 1479, was granted to certain Masters and Headsmen of the Trade a Right to search and inspect the several Sorts of Work brought to Market by Shoemakers, to prevent the People's having a bad Commodity imposed upon them."<sup>231</sup> In some of the returns of 1381, we may trace the early stages of this process; *e.g.* in those of the fullers<sup>23</sup> and tailors<sup>233</sup> of Lincoln, where the chief duties of the fraternities are still clearly religious, although they are beginning to extend their action to the industrial sphere, *e.g.* to demand payments from all new-comers into the craft, and from would-be apprentices.

Facts like these agree very closely with the theory of Nitzsch, who has traced the "Zunft" system of Germany to the influence, one upon the other, of the older secular *Aemter* and the younger religious *Bruderschaften*; <sup>234</sup> although this generalization will hardly cover all the English facts. There were, as we have already seen, two forms of organization which had at first no religious features. There were, on the one side, a certain number of crafts which had secured the recognition of their guilds at an early date; and there were, on the other hand, several which had obtained their industrial organization, not from independent union as craft guilds, nor from association in a fraternity, but from the conjoint action of legal enactment and self-interest. It is probable that all these were drawn into the general movement, and by the adoption of common religious practices, such as attendance at dirges or commemorative masses for deceased members, by the endowment of altars and similar measures, came at last to resemble those organizations which had been religious from the first. There were, however, many instances where the religious fraternity, though composed chiefly of men of a particular craft, was yet altogether distinct from the machinery for the supervision of the trade; <sup>235</sup> so distinct that there might be two or more fraternities within the same craft. <sup>236</sup> Exactly the same thing is to be found in France. <sup>237</sup> Such brotherhoods did not differ from other fraternities except that they were composed of men and women who had been brought together by their common occupation; and their abolition would not formally affect the constitution of the craft for industrial purposes. Even where the connection was of the closest, and the company had actually grown out of a religious fraternity, the two elements of trade control and religious worship were easily distinguishable. Gierke has remarked with regard to Germany, and Levasseur with regard to

France, that in the later Middle Ages there is traceable a certain separation of the two, even where once they had been closely associated; the religious services come to be supported by separate endowments, for which a separate account has to be kept.<sup>238</sup> It is probable that the same process had been taking place in England; and it is easy to see how this would make it possible to disendow the religion of the companies without touching any other part of their constitution.

The position of the crafts in relation to religious endowments will be more evident after we have noticed the exact language of the several statutes referring to them.

The act of 1545 dealt with "Colleges" [primarily no doubt in the sense of corporations of priests other than those at the Universities],<sup>239</sup> "Free-chapels, Chantries, Hospitals, Fraternities, Brotherhoods, Gilds, and Stipendiary Priests having perpetuity for ever."<sup>240</sup> It began by alleging that the possessions of many of these foundations had of late been so misapplied that they had practically been dissolved; and it vested in the king all such colleges, etc., as had in this way been dissolved during the previous ten years. This part of the act could have no relevance to craft fraternities unless they had alienated their religious endowments; and we have no reason to think they had done anything of the kind. But then the act went on to declare that, not only were there these instances of individual misappropriation, but that colleges, chantries, fraternities, etc., were not, as a rule, properly managed; that foundations which had been created "to the intent that alms to the poor people and other good, virtuous, and charitable deeds might be done" were misused; and that the king had now resolved to bring about their employment for "more godly and virtuous purposes." The king was therefore empowered, "during his natural life," to appoint commissioners who should have authority to seize

into the king's hands the lands and other possessions of all such foundations, of the kind here specified, as the king should appoint.

It is evident from the general tenor of the act that all the institutions thus aimed at were in the main of a religious character. The terms "fraternity," "brotherhood," "gild," though they might sometimes be used for associations primarily industrial, were far more commonly used at that time for religious societies; and where the terms are used without any qualifying phrase, as here, they must, it would seem, be so interpreted. Still there can be no doubt that such companies as had grown out of religious fraternities, and still bore the official designation of "the fraternities of such and such saints," might be affected by the act if the king chose to make use of it; and, still more evidently, such foundations for chantries or priests as were held in trust by the companies. But there is no sign that the government intended to use its new powers to make a clean sweep of all religious foundations. The commissioners were directed in the first instance to send in a report of all the chantries, etc., within each county, with an account of the purposes for which they had been founded. Some of these returns for strictly religious gilds,—unconnected with crafts,—have been printed.<sup>241</sup> With the exception of occasional slips as to the date of their establishment, and the polite attribution of their foundation to the kings from whom they had received letters patent, the reports bear every mark of being as accurate as was possible under the circumstances.<sup>242</sup> The commissioners were certainly not wanting in sympathy for the charitable works of the bodies they visited, and they seem to have honestly reported to the government the representations of those interested in the several foundations. Thus, concerning the Gild of the Holy Trinity within the

Church of S. Nicholas, Worcester, they reported that the revenue from lands and tenements was £13 17s. 10d.; "which hath been always employed, *as it was presented to the King's Majesty's Commissioners there*, to the maintenance of one schoolmaster there to teach freely grammar, £6 13s. 4d. And to divers poor people, inhabiting in 24 cottages or almshouses, adjoining to the Trinity Hall there, 107s. 4d.; and so remaineth of the said sum but 32s. 2d., which sum *the presenters did affirm* to be not sufficient for the yearly repairing of the said hall, cottages, and almshouses." On the margin of the return is written what we may suppose to have been the decision of the government on considering the report: "Continuatur quousque the poor; for the School may cease, for there is one other in the town of the king's foundation; and this is no School of any purpose as is credibly said."<sup>243</sup> In several instances the commissioners pointed out that the gild chapels enabled the people who lived at a distance from the parish church to find divine services within easy reach;<sup>244</sup> and where the gild did anything in the way of the relief of the poor it was carefully dwelt upon.<sup>245</sup>

Although no returns from crafts have been printed, we know that in London the Commissioners applied to the Merchant Taylors' Company for information, and received from them a "book" containing a list of charities and obits connected with the company.<sup>246</sup> Doubtless the same course was pursued with the other companies. With the Merchant Taylors the only immediate result seems to have been that the company was obliged to pay in to the Crown the arrears, amounting to £52 10s., of the payments for obits (or funeral masses) which had once been associated with the House of the Grey Friars, and which, in the opinion of the Commissioners, ought to have passed to the Crown when that house was dissolved.<sup>247</sup> There were small and occasional



exactions of this kind ; but, on the whole, it would appear that the old foundations had been hardly disturbed when the death of Henry VIII. voided the statute.

All subsequent action on the part of the government rested not on the statute of 1545, but on that of 1547.<sup>248</sup> This statute sets out with alleging a new motive for dealing with religious foundations, an addition which illustrates the rapid progress of the doctrinal Reformation after the accession of Edward VI. It is that "masses satisfactory, to be done for them which be departed," had led to superstition and kept the people ignorant of the true doctrine of salvation ; and that the revenues devoted to such purposes would be better applied to the erecting of grammar schools, the further augmenting of the universities, and the better provision for the poor and needy. To what extent these professed objects were realized, to what extent the revenues were squandered or bestowed on court favourites, is a question which has never yet been impartially investigated. It would be out of place to enter upon the subject here ; although it may be observed, in passing, that a much larger portion of the revenue did actually go in the end to public purposes than the language of many modern writers would lead us to suppose. Here we can only consider what befell the crafts. The act goes on to recite the statute of 1545 ; but it is observable that, when it comes to the enacting clauses, it silently draws a distinction between colleges, free-chapels, and chantries on the one side, and on the other, the rest of the foundations included with them in the earlier enactment. *All* colleges, free-chapels, and chantries are declared to be in the actual seisin and possession of the present king. But then the act proceeds to lay down, as applicable to all *other* foundations, the two following general rules : (1) that "where lands, etc., were given *wholly* to the maintenance of any anniversary

(mass), or obit, or other like intent, or of any lamp in any church, etc.," they are to be vested in the king; (2) that "where *but part* of the revenues of any lands had been assigned for such purposes the king shall receive and enjoy every such sum as in any years within the last five have been expended thereon, as a *rent charge* to be paid yearly." It next makes a special application of these rules to "any manner of corporations, gilds, fraternities, companies, or fellowships of misteries or crafts." All sums which they have been wont to pay "toward or about the finding, maintenance, or sustentation of any priest or of any anniversary, or obit, lamp, light, or other such thing," are to pass to the king as a rent-charge. Then it turns to "all fraternities, brotherhoods, and gilds *other than* such corporations, gilds, fraternities, companies, and fellowships of misteries or crafts," and vests *all their* possessions in the king. It is true that even in the case of these other fraternities, as well as in that of the chantries, the commissioners were instructed to ascertain what, if any, perpetual allowances to the poor had been connected with the several institutions, and to make assignments for the regular payment thereof; to assign lands for grammar schools or preachers' where such had been established by the deed of endowment; to add to the number of the vicars in such parishes as needed additional clerical help; and to restore to the various bodies, where they saw fit, a part of their endowment towards the maintenance of piers and sca-walls. But the carrying out of these liberal provisions depended on the good will of the government. With the companies of crafts, on the other hand, only such part of their revenues was vested in the king as had already been devoted to certain specified religious purposes; and it was not necessary, as some writers think, to restore to them the revenues which they had used for the relief of their poor members.

because these were never taken away. The meaning of the statute would be perfectly clear: where there was a religious fraternity composed of members of a craft, but clearly separate from the company itself, it would share the common fate of all religious fraternities; where in any company the religious and industrial features were both present, those revenues would pass to the king, and those only, which had actually been bequeathed or otherwise set apart for definite religious purposes. As Mr. Clode has well observed of his own company, "Except for religious sentiment the gildsmen had no reason for concealment; as instead of making, as theretofore, several payments to several priests and in several parishes, one payment of an ascertained and definitive sum had thereafter to be made to the Crown." <sup>249</sup>

The character of the settlement effected by the act has been obscured by a mistaken interpretation of the action of the burgesses in the Parliament of 1547. It is supposed that the government were proposing to confiscate to the crown the whole of the property of every sort of gild, including the craft companies; that the town members, led by the representatives of Lynn and Coventry, vehemently protested against the proposal; that, to prevent the bill being wrecked, the government gave a promise that the lands of the gilds should be restored; that the burgesses yielded on this understanding; and that on the whole the government carried out its promise, so that the lands of the gilds were only surrendered *pro forma*, and all that they lost were their religious services.<sup>250</sup> But such a view of the case would have been impossible after a careful study of the act, and is due to an imperfect appreciation of the distinction between craft companies and the "gilds," in the sense in which the term was then generally used. So far as the craft companies were concerned, the bill did not propose

to take from them anything more than the revenues actually used for religious purposes. The revenues of the *craft* companies devoted to social or charitable purposes were safe: what the burgesses objected to was the seizure of the lands of the *religious* gilds. This is clear from an examination of the two authorities on which the story depends,—Burnet, and a very curious memorandum of the year 1548 in the Council Book. Burnet tells us that the bill “was much opposed by some burgesses, who represented that the boroughs for which they served, *could not maintain their churches* and other public works of the gilds and fraternities if the rents belonging to them were given to the king. . . . This was chiefly done by the burgesses of Lynn and Coventry, who were so active that the whole House was much set against that part of the bill for the gild lands; therefore those who managed that House for the Court took these (*i.e.* the burgesses of Lynn and Coventry?) off by an assurance that their (Lynn and Coventry?) gild lands should be restored to them; and so they desisted from their opposition, and the bill passed on the promise given to them, which was afterwards made good by the Protector.”<sup>251</sup> Clearly the gilds that Burnet had in his mind were mainly religious in their nature. And this is still more evident on looking at the details of the negotiations in the Council memorandum. The men of Coventry declared that there were in the town “eleven or twelve thousand houseling people” and “but two churches, . . . whereof the one, that is to say the church of Corpus Christi, is specially maintained by the revenues of such gild lands . . . as had been *given* heretofore by divers persons *to that use*.” The burgesses of Lynn, indeed, say nothing of religious purposes, but allege “that the gild lands belonging to their town were given . . . for the maintenance and keeping up of the pier and sea banks there.” But

they are spoken of as "the lands pertaining to *the gild of Lynn*," and this gild of Lynn was doubtless the "Gild of the Holy Trinity or the Great Gild of Lynn,"<sup>253</sup>—the shape which the gild merchant of that town had assumed towards the end of the fourteenth century. Although some, even a great part, perhaps, of the revenues of this gild was used for public works,—and it may be remarked that it would be as unsafe to take the statement of the burgesses as to take that of the government without a grain of salt,—its general character was certainly religious. As early as 1389 the gild maintained thirteen chaplains. Thus, then, here again it is a question of a religious gild,—a religious gild, indeed, of a peculiar kind, one that had grown out of a merchant gild, was closely bound up with the civic constitution, and did much more than provide for religious observances. Yet the whole episode belongs to the history of the religious gilds, and is chiefly of interest in relation to the question to what extent the works of charity of the Middle Ages, so far as they were really effective, were disturbed by the Reformation,—a subject to which we shall return in a later chapter. It has nothing whatever to do with the craft societies.

The commissioners, whom the king was empowered to appoint, were directed by the act "as well to survey all and singular lay corporations, gilds, fraternities, companies, and fellowships of Misteries or Crafts incorporate, and every of them, as all other the said fraternities, brotherhoods, and gilds . . . to the intent thereby to know what money and other things were paid or bestowed to the finding or maintenance of any Priest or Priests, Anniversaries, or Obits, or such like thing, light or lamp by them or any of them : as also to enquire . . . what manors, lands, tenements, rents, . . . be given . . . to the King by this Act."<sup>253</sup> How the commissioners, when appointed, understood their task may be

gathered from the questions which the commissioners in London addressed to the City companies. According to Herbert, they inquired: "1. Whether or not they had *any peculiar brotherhood or gild within their corporation*? 2. Whether they had any college, chantry, chapel, fraternity, brotherhood, or gild within the same? What number of stipendiary priests they paid from bequests of estates, and what were the amounts of such stipends? Who were the donors, and what were the particulars of the estates left, with their yearly value, and the payments and deductions to be made from them? 3. Whether they possessed any and what jewels, goods, ornaments, chattels, and other things appertaining to any chantry or stipendiary priests. . . . And lastly, whether they had any other yearly profits or advantages, which to their knowledge the king ought to have under the operation of the act."<sup>254</sup> Detailed returns, or "books of certificate," were prepared by the companies,<sup>255</sup> guided by the best legal advice they could procure;<sup>256</sup> and these the commissioners apparently accepted without further scrutiny.<sup>257</sup> What proportion of their revenues were lost by the companies under the act may perhaps be gathered from the case of the Merchant Taylors' Company, which at this time held twenty-nine hereditaments, standing at an annual rental of £440 13s. 10d., *all* of which (to some extent) were charged either by the company's contract, or by will, with payments to provide for masses and obits."<sup>258</sup> Out of this £440 13s. 10d., only £98 11s. 6d. was reported by the commissioners as due to the king, *i.e.* about two-ninths.<sup>259</sup> Many of the smaller companies had either no such revenues burdened with religious duties at all, or only inconsiderable sums. Thus the Carpenters of London had only to provide for a single obit, and received an annual income for that purpose of eight shillings.<sup>260</sup> The total sum of the rent-charges for-

feited by all the London misteries amounted to a thousand pounds; <sup>261</sup> and of this amount the several companies paid in their respective shares every half-year to the Augmentation Office, as the act required, for the next three years, *i.e.* until the government saw fit to make another arrangement.

The recent publication of the chantry certificates for some of the western counties proves beyond a doubt that the action of the commissioners outside London was guided by the same principles as in the capital. <sup>262</sup> By a special good fortune we are able to compare with the lot of the London Merchant Taylors' Company that of a company which in history and character was almost exactly parallel to it, *viz.* the Merchant Taylors' Company of Bristol.

Like the London company, "the Fraternity of Taylors of Bristowe of the Gild of S. John the Baptist" was originally a religious brotherhood. But the need was felt, at the beginning of the fifteenth century, of establishing in Bristol the same "good ordinance" as had been instituted "in London, York, and other towns of the realm;" and accordingly the mayor and common council ordained that "from henceforth no man of the craft of tailors should be enfranchised in the aforesaid town, unless the master and the four wardens of the said craft of S. John the Baptist in Bristowe should witness to the mayor, the sheriff, and all the court that he was a person able, of good condition, and of good name, and full perfect in his craft." <sup>263</sup> The religious gild thus became a craft organization. But the association still continued to act as a religious fraternity; and when any brother or sister died, the surviving members were bound to "pay their mass-penny to the wardens when they came thereafter, and the wardens to pay this mass-penny to the priests that be at the service of the mass of the brethren."

Before the date of Edward's commission the merchant



tailors of Bristol had been moved by the same desire as actuated most of the religious and charitable bodies of the Middle Ages,—the desire to provide a fixed endowment. The “Warden and Brotherhood had license,”—so the commissioners tell us,—“to purchase lands and tenements towards the maintenance of a chaplain to sing for ever at the altar of S. John Baptist, within the parish church of S. Ewens;” and the same convenient plan had been adopted “for the relief, succour, and comfort of the poor Brethern and Sestern of the same fraternity fallen in decay,” who were assisted from the revenues of lands and possessions “given by sundry persons” for that purpose.<sup>264</sup> Yet in the return, given doubtless by the fraternity in the first instance, and then forwarded to London by the commissioners, there is not a word as to the revenues used for eleemosynary purposes. It is clearly assumed as obvious that they do not fall within the scope of the act. The return is limited to the expenditure on a priest and on certain obits, and to the value of the church plate :

“The incumbent’s living or yearly stipend in the said Service was always . . . cxs. iiid.; and there was yearly bestowed on keeping certain obits viiis. iiid. : which in the whole amounteth to the sum of cxviii. viiid., *whereunto the king’s majesty is entitled as a Rent Charge out of the lands to the said fraternity belonging*, viz. by year cxviii. viiid. The number of the ounces of plate and jewells to the same belonging, valued at xxxiiii. ounces and a half .. lxxviiiis. Ornaments to the same appertaining valued at .. .. iiii li.”

Whether it was right that the revenues devoted to religious purposes should be confiscated, is a question upon which we need not here enter. But it is important to recognize that it was to such revenues that the confiscation was limited. And the commissioners, instead of showing a reckless disre-

gard of the various purposes to which revenues were applied, or a desire to seize charitable funds under the pretext of superstitious uses,<sup>265</sup> displayed a will to arrive at the truth, and a readiness to let the persons locally interested make out the best case for themselves, to which justice has hardly been done by modern writers.<sup>266</sup>

To return to London. A year after the rent-charges from the London companies had fallen into the hands of the king, the government found itself in urgent need of money, and resolved to sell chantry lands to the annual value of £5000. In this £5000 were included the £1000 annually due from the city companies; and accordingly they now received an intimation from the Council that they were expected to redeem these rents by the payment of £20,000, and that within eight days.<sup>267</sup> The companies dared not resist; and as they had no large sum of money at their disposal wherewith to meet the demand, they had to sell a good deal of the property remaining to them in order to raise the requisite sum. The simultaneous throwing of so much land upon the market compelled some of the companies to accept rather low prices. Thus the Fishmongers, to regain rents amounting to £95 1s. 4d., were forced to sell tenements with a rental of £113 9s. 4d.; the Merchant Taylors, to gain annually £98 11s. 5d., lost annually £122 14s. 2d.<sup>268</sup> But on the whole the companies made a satisfactory bargain for themselves. The sum of the rents sacrificed by the eleven companies, for which we have the requisite information, was £601 14s. 6d., and the rents recovered £628 4s. 10d.<sup>269</sup> The total amount which the government finally accepted from all the London companies was about £18,700; in return for which it handed over the right, not apparently to the whole of the rent-charges, but to an amount calculated on the basis of twenty years' purchase.<sup>270</sup> These can hardly be regarded as extortionate terms, seeing that twenty years'

purchase was the ordinary price for land.<sup>271</sup> The letters patent conveying the re-grant to the companies were signed in July, 1550;<sup>272</sup> and the title of the companies, and of all other purchasers of chantry lands, was confirmed by subsequent statute.<sup>273</sup>

How far the religious gilds "obviated pauperism in the Middle Ages,"<sup>274</sup> and how far the confiscation of their lands really contributed to social distress, are intricate questions, upon which more will be said in the chapter on mediæval poor relief. But as to the craft gilds,—“the companies of misteries or crafts,”—the preceding narrative will have shown that most of the statements commonly made about them are devoid of foundation. The statute of Edward VI. neither “abolished,” nor “dissolved,”<sup>275</sup> nor “suppressed,” nor “destroyed”<sup>276</sup> the craft companies; it left all their corporate powers and rights intact, except so far as religious usages were concerned. It did not “confiscate the whole property of the craft gilds,”<sup>277</sup> but only such parts of it as were actually devoted to the maintenance of priests and the provision of obits and lights. It did not touch the revenues devoted to “the maintaining of decayed members of the gild, the education of their children, the portioning of their daughters, or the giving of pittances to their widows.”<sup>278</sup> Whether praised or condemned, the act must be recognized to be simply what it professed to be: the confiscation of revenues used for specific religious purposes; and in their action in this respect the “rapacious courtiers of Edward VI.” certainly had the support of a considerable part of the town population.<sup>279</sup>

But if the current statements as to the general character of the act are without foundation, the current statements as to the treatment of the London companies are equally baseless. It is altogether incorrect to assert that

“Somerset did not dare to attack the London gilds,” meaning thereby the craft companies;<sup>280</sup> they were treated like all other companies of crafts. And again, although the London companies made a pretty good bargain when, three years later, the government determined to exchange the rent-charges for a lump sum down, the government got as much out of them as it could. There is no reason to believe they were treated with any special favour; and it is a misleading representation to speak of the payments they made as bribes. There seems no evidence for the assertions, either that the Companies petitioned the Government to “allow” them to redeem the rent-charges, or that they “represented that the rent-charges were required for the purposes of the eleemosynary and educational charities to which they were trustees,” or that the redemption was “allowed” on that ground.<sup>281</sup> Whether it is practicable to make a better disposition of the revenues of the modern city companies than they make themselves, and, if so, whether a compulsory conversion of them to such uses would be morally justifiable, are questions which may be properly discussed; but the issues are only obscured by the introduction of inaccurate history.<sup>282</sup>

§ 39. That there was no violent break in the continuity of craft development, that the old gild organization continued to exist in the towns and in most industries, and that, when and where it passed away, its death was due to slowly-acting economic causes, and not to the act of 1547, is so abundantly clear from the documents of the sixteenth century that it seems hardly worth while to adduce definite proofs. But as a great gulf is often imagined to divide the pre-Reformation from the post-Reformation social system, reference to a few facts may not be out of place.

In York,<sup>283</sup> Ipswich,<sup>284</sup> Coventry,<sup>285</sup> Newcastle,<sup>286</sup> and

Chester,<sup>287</sup> and probably in some other towns, the companies not only survived but continued to exhibit their pageants far into the reign of Elizabeth, when their cessation was due to the improvement of the dramatic art on the one hand, and the growth of Puritan feeling on the other.<sup>287a</sup> In York, the gild of Corpus Christi was, of course, dissolved; but no change took place in the performance of the plays during the years 1547-1559, except that in 1548 the town council ordered the omission of three of the episodes dealing with the traditional story of Our Lady. The pageants were suspended in 1550 and 1552, owing to the prevalence of the plague, but they were resumed as soon as the fear of infection passed away. In Ipswich, in the sixth year of Edward VI., "the wardens of the several companies" were expressly ordered to be present at the celebration of the festival. Even where there was no such annually recurring public manifestation of the companies' existence, the town records show their continued life. Thus at least twenty-six craft companies in Bristol lived on into the reign of Elizabeth.<sup>288</sup> In many towns the later ordinances of the companies begin with reciting those of pre-Reformation times: this, for instance, is the case with the "Composition" of the Hull weavers drawn up in 1564, which repeats that of 1490.<sup>288a</sup>

Then, again, the consistent language of legislation implies the maintenance of the old industrial organization. An act of the first year of Philip and Mary prohibits countrymen from retailing goods in corporate or market towns "unless they shall be free of any the gilds and liberties of any the said town;"<sup>289</sup> that of 5 Elizabeth mentions the company of Worsted Makers of Norwich;<sup>290</sup> that of 8 Elizabeth "the company, fraternity, or gild of Drapers of Norwich, which hath been by a great time lawfully incorporated,"<sup>291</sup> and so on. And it was very far

from being the case that the wardens of the craft guilds were not "recognized for public duties after 1547."<sup>292</sup> In 1566 the officers of the Haberdashers, Cappers, and Hatters of London were given special search powers by statute.<sup>293</sup> In 1564 Elizabeth granted a new "composition" to the Glovers of Shrewsbury,—incorporated about a century before,—which was altogether on the old lines, and authorized the wardens to seize false wares.<sup>294</sup> Abundant additional examples can be readily produced.

But the "subsidy acts" by themselves are conclusive. Many years before the accession of Edward VI. it had been usual to include the possessions of the companies and fraternities in the property to be taxed when a general subsidy was levied. Perhaps the earliest distinct enactment to that effect is to be found in the act of 1514–15, where we find the phrase "any corporation, fraternity, gild, mistery, or any commonalty (community), being incorporate or not incorporate."<sup>295</sup> The same phrase is used in 1523;<sup>296</sup> in 1534 it is "gilds, fraternities, brotherhoods, and other companies of lay persons, being corporate or not corporate;"<sup>297</sup> in 1542–3<sup>298</sup> and 1545,<sup>299</sup> "corporation, fraternity, gild, mistery, brotherhood, or any communalty, being corporate or not corporate." Now, if the legislation of 1545 had led to the dissolution of every sort of gild and fraternity, we should expect to find some change in the subsidy acts of Edward's reign. Instead of that, in 1548 the phrase occurs with a slight transposition: "fraternity, gild, corporation, mistery, brotherhood, company or communalty, corporate or not corporate:"<sup>300</sup> the act of 1552 reverts to the old order of terms adopted in 1542;<sup>301</sup> and henceforth, right through the reigns of Mary and Elizabeth, right through the seventeenth century, the same phrase returns in the subsidy acts, with occasional unimportant variations, until it is transferred to

the land-tax legislation of William III. and Anne.<sup>802</sup> It will be observed that the use of the adjectives "corporate or not corporate" confirms the assertion that has already been made that formal incorporation involved but little practical difference in the position of the crafts; and that the frequent charters, etc., of incorporation in the second half of the sixteenth and the early part of the seventeenth century are by no means to be regarded as in all cases the first creation of the associated body.<sup>803</sup>

It must not, however, be supposed that the craft-gild system underwent no modification throughout the sixteenth century. The process of change never ceased; but it was very slow. The disendowment of religion in the misteries evidently accelerated the transformation of the system; for it removed one strong bond of union among the members, and limited their common efforts to the range of their material interests. But it was a transformation which had already commenced, and which would sooner or later have worked itself out in much the same way even if religion had not been disendowed; for it was due to deep underlying social and political forces. The evolution cannot be summed up in a single word, and the term "decay," though true enough of some sides of the process, gives a false impression. For while, on the one hand, it is true that around the gild-industry grew up new and great industries organized on different lines; and while it is true, also, that the company-organization itself now entered into a smaller part of the daily life of the members, and so becomes less interesting to the social historian; on the other hand, the extent of industrial operations brought under gild control for a long time constantly increased. It remained the policy of the government and of the town authorities to keep the various occupations under the system of supervision which had been created in the later Middle Ages; and there-



fore, as new centres of industry grew up, as new occupations made their appearance in old centres, or as the number of men in some petty occupation grew large enough to attract attention, they were all brought, if possible, within the same organization. It were to go beyond the scope of the present volume to enter with any minuteness into the history of the crafts in the second half of the sixteenth century. But the lines of development may be roughly indicated.

§ 40. It was during the Tudor period that the idea of a national industry and a national trade arose to supplement the earlier conception of local groups and limited markets. This new idea alike encouraged, and was encouraged by, an extension of the control of the national government over the operations of the several local bodies,—both directly, and also indirectly through the justices of the peace. An attempt in this direction had, indeed, been made much earlier. The craft guilds had never in theory enjoyed a complete autonomy; and municipal ordinances, backed up by legislative enactment, had long before this time compelled them to obtain the approval of the town authorities for any statutes they might make.<sup>304</sup> It may be readily gathered from the preceding chapter that such a restraint would, in many towns, be hardly a restraint at all; yet that was the only check upon them until the beginning of the sixteenth century. But in 1503–4 a most significant departure was made by parliament. It was enacted that “no masters wardens and fellowships of crafts or misteries or any of them, nor any rulers of guilds and fraternities take upon them to make any acts or ordinances . . . but if the same acts be examined and approved by the Chancellor, Treasurer of England and Chief Justices of either Bench or three of them; or before both the Justices of Assizes in their circuit.”<sup>305</sup> The allegation of the preamble was that

“masters, wardens and people of guilds, fraternities and other companies corporate, dwelling in divers parts of the realm, often times, by colour of rule and governance to them granted and confirmed by charters and letters patent of divers kings, make among themselves many unlawful and unreasonable ordinances as well *in prices of wares* as other things for their own singular profit and to the common hurt and damage of the people.” Thus the one motive which was distinctly indicated was the desire to take away from the companies the power of determining the prices of commodities. How far they had really exercised such a power, with or without authorization, it is hard to determine; but, to whatever extent they may have exercised it, it was now lost. Now that the crafts were shrinking up into close corporations, such a power was more likely to be abused; it had always been a source of danger. Possibly, also, the enactment was influenced by an alteration in public opinion on the subject of price. The public were more and more content to have prices fixed by “the haggling of the market.” The statute was not allowed to become a dead letter; it gave an opportunity to discontented members of the various companies to bring their officers up before the courts;<sup>306a</sup> and many of the crafts found it expedient to codify their old rules, and get them confirmed by the proper authority.<sup>306b</sup> That all new statutes for the government of a trade had in future to be submitted for the approval of the chief executive authorities at London, or, as was more convenient, of the justices at assizes, is sufficiently illustrated by the later annals of the companies.<sup>306</sup>

Nor were the companies only restricted in the determination of prices: their jurisdiction over their own members was restricted within increasingly narrow limits. The act of 1503-4, just referred to, contains a further clause

(s. 2), that "none of the same bodies corporate take upon them to make any acts or ordinances to restrain any person or persons to sue to the King's Highness, or to any of his Courts, for due remedy to be had in their causes, nor put nor execute any penalty or punishment upon any of them for any such suit to be made, upon pain of forfeiture of 40*l.*" This enactment was evidently directed against the common rule in all such societies, that no member should sue in the king's courts without leave.<sup>307</sup> And finally, the great statute of 5 Eliz. c. 4, transferred to the justices of the peace, or the chief officers of boroughs (in their capacity as justices), almost the whole of the jurisdiction over journeymen and apprentices. They were empowered to punish masters who dismissed their servants before the end of their term (s. 4), as well as servants who assaulted their masters (s. 14); to settle all disputes between masters and apprentices as to ill-usage or neglect of duty (s. 28); and above all, it was in them (and not in the governing bodies of the crafts, as often heretofore<sup>308</sup>) that the power to fix the wages of journeymen was henceforward to reside (s. 11).<sup>309</sup>

Events of another kind were at the same time affecting the character of the industrial organization quite as profoundly as legislation. Nothing is more startling to the historian of mediæval guilds than to find, in the latter part of the sixteenth century and throughout the seventeenth, two, three, even a dozen, occupations united in one company. Where the occupations are closely allied—such, for instance, as the weavers and fullers,<sup>310</sup> the fullers and dyers;<sup>311</sup> or where two trades could be easily combined by individual members, *e.g.* those of mercers and haberdashers,<sup>312</sup> there is less reason for surprise. But the occupations thus grouped together are often so heterogeneous,—*e.g.* upholsterers, tin-

plate workers, and stationers,<sup>313</sup>—that it is not conceivable that the officers of the company could exercise an efficient supervision over the processes of production. The union of the several occupations is often spoken of in our documents as the work of the municipal authorities; and the account given of the proceeding would often suggest, if we had no further information, that the craftsmen of that particular place had never had any corporate organization before. This, indeed, was the case with many of the incorporations in the smaller towns, especially in the seventeenth century. There were not enough artisans and shopkeepers to form the same number of companies as there were separate occupations; but, as a desire was felt for some sort of association,—a desire suggested by the existence of companies in other towns,—it was determined to unite them in three or two companies, or even in one. In such a case the company usually bore the name of the occupation followed by the more influential citizens. The ordinance recording the decision of the town council has sometimes an amusing sound. Thus at Wallingford, in 1663, “it was ordained that all trades within the borough should consist of one body, to be called the Company of Drapers.”<sup>314</sup>

In many cases, however, the several companies thus united had once their own separate organization.<sup>315</sup> A witness to their earlier independence frequently survived in their separate heraldic emblems. Thus we are told that “the Merchants, Grocers, Mercers, and Apothecaries make but one Corporation in York; . . yet they bear each a distinct Coat-of-Arms, as several trades. So likewise the Drapers and Merchant Taylors are incorporated into one Company, . . . but bear distinct Arms.”<sup>316</sup> The development in Edinburgh, Aberdeen,<sup>317</sup> and other Scotch towns was precisely similar to that of the English towns in this particular of the associating

together of trades previously separate. In the Edinburgh regulations of 1509, uniting the Shearers and Walkers (*i.e.* Fullers) with the Weavers, there is a quaint clause to the effect that the Arms of the said Shearers and Walkers shall be put on the Webster's Banner "gif they may be gudlic formit, and gottin theirintill."<sup>318</sup> As each craft delighted to bear on its coat-of-arms most of the implements of its occupation, an order like this must have severely tried the skill of the heralds.

But although this combination of crafts went on most rapidly in the reign of Elizabeth and in the succeeding century, it had begun some time before.<sup>319</sup> Thus the Mercers and Goldsmiths of Shrewsbury were probably united in 1480;<sup>320</sup> the Bladesmiths of London were probably incorporated with the Armourers in 1515;<sup>320a</sup> the Goldsmiths, Plumbers, Glaziers, Pewterers, and Painters of Newcastle were already united in 1536.<sup>321</sup> But the most interesting example is presented by the history of the London Leathersellers. First, in 1479, the White-tawyers, on the plea that their numbers were so few that they "had no choice to make any wardens," got leave from the mayor to unite with the Leathersellers, and, as the records of the latter tell us, "brought in their Book, and thereupon took their Clothing with us." Then, in 1498, the Purcers and Glovers, which had been "ii Craftes severally by themself," got similar leave to unite together on the ground of decay, "both in number of persons and substance of goods:" and in 1502 the Glovers-Purcers were united to the Leathersellers. Finally, in 1517, the Pouchmakers were also "translated and transmuted into the name of Leathersellers."<sup>321a</sup> There is a curious little indication that about the time of Elizabeth's accession the smaller companies were beginning to tremble for their independent existence. A London girdler,

drawing up his will in 1558, was careful to add to his bequest the condition, "so long as the said Company of Girdlers shall remain still Girdlers, and be not transported to any other Company or Fellowship."<sup>322</sup> Yet little was done for some time to disturb old conditions; it was not till towards the end of the reign that the tendency towards consolidation became strong; and during the earlier years the tendency was rather to confirm the powers of the separate organizations already in existence by the grant of charters of incorporation.<sup>323</sup> Moreover, precisely the same grouping of several and even diverse occupations in one incorporation took place outside England. This was the case both before the Reformation, and afterwards in places which the Reformation did not touch; so that we cannot suppose that the religious changes were the main cause. The example of Edinburgh is particularly instructive. There, as early as 1483, the Corporation of Hammermen consisted of the "Arts" of Blacksmiths, Goldsmiths, Loriners, Saddlers, Cutlers, and Bucklers or Armourers; and we are told that as late as the eighteenth century, "besides the General Meetings of the united Body, the several Arts whereof it consists have their separate Meetings, wherein are transacted the Concerns relating to each Company; which severally have two Officers called the *eldest* and *youngest Master*, who preside in the several Meetings."<sup>324</sup> From Germany abundant examples are adduced by Maurer.<sup>325</sup>

As time went on, the combinations became more and more heterogeneous; and it is easy to see that the very pretext of exercising supervision over the methods of work was being abandoned. The mediæval feeling about "false" work gradually gave way before new ideas of individual freedom. At the same time the growth of a strong national judicature and executive put an end to the limited autonomy

of the crafts, as it had done to the larger measure of autonomy enjoyed by the towns of which they had been subordinate members. The one purpose of the gild system, so far as it survived, from the seventeenth century onward, was the protection of the interests of the craftsmen of the several localities by ensuring to them a monopoly of the industry of their own town. This is quite openly expressed in many town ordinances as if it were a mere matter of course. That of Preston, in 1628, is a typical example: "Divers handicraftsmen and servants at husbandry leaving their own occupations, seeking not only to live easily but rather idly, have taken upon them within the town of Preston to set up and live by trade of buying and selling of divers wares and merchandise contrary to the law; for remedy whereof the Mayor, Bailiffs, and Burgesses of Preston, on petition of the most part of the tradesmen of the borough, ordain that from henceforth there shall be within the town a Company or Fraternity called Wardens and Company of Drapers, Mercers, Grocers, Salters, Ironmongers, and Haberdashers."<sup>326</sup> The very fact that outside the companies of crafts new and great industries were springing up, into which access was much more easy, must have assisted the smaller occupations to retain their exclusive character.

§ 41. To return once more to the early years of Elizabeth. It has been doubted whether the government of the time had any definite industrial policy; and, granting that it had, that policy has been most variously represented.<sup>327</sup> But to those who have looked with any care at the course of previous development, and then at the legislation of 1563, it is impossible to mistake the signs of a conscious purpose on the part of the government; though it must be confessed, on the other hand, that its action was neither so novel for England, nor so exceptional as compared with other govern-



ments,<sup>328</sup> as has been supposed. When the government looked out on the industries under the gild system, it felt the need of bringing them more closely under public control, and this feeling is reflected in the clauses of the Statute of Apprentices, conferring jurisdiction on the justices of the peace. Hence a certain weakening of the gild system. On the other hand, there were certain features of that system which had so impressed themselves upon the mind of the nation,—especially the security for good work which was supplied by the method of apprenticeship,—that it seemed the obvious duty of a public-spirited government to introduce them into all the new industries which were growing up without definite rules. Hence the clause making a seven years' apprenticeship a requisite for every industry. It may be observed that in this matter contemporary morality and the interest of the government went together; for the master craftsmen in the industries under the gild organization were still a greater political power than the employers in the new occupations, and in insisting upon apprenticeship the government was doing a popular thing. The desire to provide the body of competent adult workmen with sufficient employment contributed to the motives which led to the rules restricting the number of apprentices, and enforcing a yearly hiring. It was not that this legislation "extended the gild system to all industries." What it did was rather to make general certain conditions of industry which the gilds had been the first distinctly to formulate. Those conditions could be united, and, as a matter of fact, were soon united, with a very different organization,—that of "the domestic system." The essence of the gild system was the combination of labour with small capital; in a great part of the field of labour this passed away, and the domestic system took its place. But this was

altogether unconnected with the action of the government. It was due to the insertion of a new economic power *over* the whole body of artisans including both master craftsmen and the journeymen and apprentices; and it was only the relations of these latter that the Elizabethan legislation here referred to sought to control.

The existing system did, at any rate, secure to the workmen a tolerable certainty of employment, under fairly good conditions, according to the standard of the time; and this is the explanation of their contentment with it as a system. As no great outcry came from the work-people, we can hardly be surprised that it did not occur to Tudor statesmen to abolish it. For even if they had themselves been so far free from the current ideas of the time as to dream of so violent a change, the system was rooted in the everyday thoughts and habits of the middle classes, upon whose support the Tudor monarchy really rested.

It has been well said that no great institution,—such as the Gild System,—can satisfy every side of human nature; that, while satisfying some, it necessarily hampers and injures others.<sup>329</sup> Thus the Gild System was never an ideal system, in the sense of meeting all the needs of all the men of any epoch. In its essence a system of control, it was bound up with its very nature that it should hinder to some extent freedom of enterprise and independence of individual initiative; in its essence a system of restriction, it was inevitable that while protecting those within, it should bear itself harshly and repellently towards those without. But, although it is unsafe to philosophize about historical development, it is hardly rash to say this much—that in every stage of social evolution there are particular needs which have to be met, and particular tendencies in human character

which call either for repression or stimulus. And speaking generally, we may say that in the later Middle Ages the time had not yet come for the free play of individual enterprise. It was rather a time when elementary conceptions of good and honest work needed to be driven into the general conscience by minute rules vigorously enforced; when what was required was discipline rather than spontaneity.<sup>330</sup> Then, again, it was a time when, in the absence of a strong national government, the individual artisan or trader needed the support of an organized body to protect him against the violence of the powerful;<sup>331</sup> and with protection necessarily went control. A tree is known by its fruits; and by its fruits the Gild System may well be judged. Within it grew up a wide middle-class of opulent traders and comfortable craftsmen;<sup>332</sup> and it was the appearance of this class by the side of, and, in a sense, between, the lords of the soil and the tillers of the soil that led to the transformation of feudal society into the society of modern times. This middle class, it has become a commonplace to say, has been the peculiar representative and introducer of modern ideas; but such a class had no existence when the guilds first arose; and although it is conceivable that under a strong government it might have arisen without the support and the restrictions of the guilds, still it is to be remembered that as a matter of fact strong government did not exist, and that it was under the Gild System that the "bourgeoisie" actually came into being. Then, again, it is the merit of the Gild System that it did for a time, and in a large measure, succeed in reconciling the interests of consumers and producers.<sup>333</sup> The tendency of modern competition is to sacrifice the producers; to assume that so long as articles are produced cheaply, it hardly matters what the remuneration of the workmen may be; but the guild legislation kept steadily before itself the

ideal of combining good quality and a price that was fair to the consumer, with a fitting remuneration to the workman. The method by which this was attempted could not be permanent; it broke down owing to material forces as well as to change of opinion. But it was something that such an ideal should be aimed at; and the endeavour to view the processes of production and sale in their relation to general social well-being conveys a perpetual lesson to modern economists.

Finally, it must be noticed that the economic conditions of the time, the difficulty of communication, and consequently the small market for most commodities, the absence of mechanical aids to production, and the like, rendered anything but small industrial undertakings impossible. As soon as in any industry the amassing of great capital became feasible, as in the great London companies, the Gild System tended to become a mere form. Given small industrial undertakings; given the current political, ethical, and religious ideas, the Gild System was inevitable; and like all other things that are really inevitable, to ask whether or no it was justifiable, is to apply a standard that is inapplicable.

## NOTES.

1. This seems to be the defect of much of Ochenkowski's argument, on p. 79.

2. *E.g.* the weavers of London: Madox, *Firma Burgi*, 191-196.

3. This word, for which the ordinary fourteenth-century Latin was *mistera* (*e.g.* Herbert, i. 294, 366), and French *mestrer*, *mistere* and *mestier* (Herbert, i. 480; ii. 118, 289, et al.), has of course no connection with the Greek *μυστήριον*, but is derived from the Lat. *ministerium*. See Ducange, *s.v.* *Ministerium*.

4. *E.g.* *Liber Albus*, trans. Riley, 451, 639.

5. *E.g.* Hen. VII., c. 7 (*St.*, ii. 652); 22 Hen. VIII., c. 4 (*St.*, iii. 321).

6. *E.g.* in the following passage:—"The immediate inspection of all corporations, and of the bye-laws which they might think proper to enact for their own government, belonged to the town corporate in which they were established; and whatever discipline was exercised over them proceeded commonly, not from the king, but from that greater corporation of which these subordinate ones were only parts or members."—*Wealth of Nations*, bk. i. ch. x.

7. 1434—"The Worshipful Maistres and Wardeyns with alle the hole *company* of the Crafte of Blaksmhythes," *Lond. and Middlesex Arch. Trans.*, iv. 32. 1503-4—"Maister, Wardens and people of Guyldes, fraternytees, and other *companies* corporate," *St.*, ii. 652. 1515 in Sharpe, *Wills*, ii. 622.

8. Cf. Schmoller, *Tucher- und Weberzunft*, 470.

9. This view differs somewhat from that of Ochenkowski, 105, who makes what are here called the two sides of the industrial history of the time into two periods, a period of expansion and change following upon one of consolidation. But it will be seen, I think, on examining the instances he gives of the two periods, that they do not belong to the same industries.

10. 37 Edw. III., c. 6; *St.*, i. 379.

11. *Liber Albus*, trans. Riley, 424.

12. Bain, *Merchant and Craft Guilds*, 40. This was revoked three years later, and the election of deacons forbidden; but a few years afterwards the crafts were able to regain their old organization. Examples such as these would seem to show the exaggeration of Ochenkowski's argument, 79, that Edward III., by enactments similar to the Scotch act of 1434, "had no intention of calling 'zünfte' into existence."

13. *E.g.* *Memorials*, 179, 563. 625.

14. Cf. Ochenkowski, 87, 93.

15. See the confession of "Avarice" in *Piers Plowman*, ed. Skcat, Text A, v. 107, seq.

16. *E.g.* at Lincoln, among the Fullers, 1297; the Tailors, 1328; and the Tylers, 1346; in *Engl. Gilds*, 179-185. The religious organization of the crafts seems to have played an especially important part in the history of the trades of Edinburgh. "Divers of the Crafts of Edinburgh, before the Reformation of Religion in Scotland, having had Altars in St. Giles's Church, in Honour of their tutelar Saints, the chief officer of the several Fraternities of Crafts was indifferently styled Kirkmaster, Godsman, or Deacon; not only from his having the care and superintendence of the Company's Altar, but by his assisting the Chaplain in the Celebration of certain Offices." After the Reformation "the Title of Kirkmaster or Godsman was obliged to make way for the more general one of Deacon."—Maitland, *Edinburgh*, 318.

17. For the merchant taylors see Stowe, ed. Morley, 193; cf. for the saddlers, Herbert, i. 16.

18. Stahlschmidt, in an excellent article entitled, "Notes from an Old City Account Book," in the *Archæol. Journal*, xliii. (1886), which is one of the very few attempts to trace in a scholarly fashion the development of the London companies, maintains that they all went through three stages; those of (1) the Religious Guild, (2) the Craft Guild, (3) the Incorporated Company. But we are hardly as yet in a position to attempt any such positive formulation.

19. Cf. Schmoller, *Tucher- und Weberzunft*, 471.

20. Drake's *York* (in 3 vol. 8vo. ed.), ii. 124, 125.

21. *Memorials*, 634.

22. Stowe, ed. Strype (1720), i. 248.

23. *Liber Custumarum*, 416-425; and Riley's *Preface*, lxvi.

24. *E.g.* Tapicers in *Memorials*, 179, and many other instances.

25. The gild of the fullers of Lincoln presents an interesting intermediate case. The gild was primarily one for religious purposes, though composed of fullers, and as such its ordinances had been witnessed by the "seal of the Deanery of Christianity at Lincoln;" but between 1297, the date of its foundation, and 1337, the date of the ordinances, it had become practically identical with the craft itself, and among the ordinances are the following: "If a stranger to the city comes in, he may, upon giving a penny to the wax, work among the bretheren and sisteren, and his name shall be written in their roll. If any one wishes to learn the craft, no one shall teach it to him until he has given twopence to the wax."—*Engl. Gilds*, 180.

26. *E.g.* articles of the cutlers (1344).—*Memorials*, 217.

27. *Liber Albus*, trans. Riley, 127.

28. E.g. in the ordinances of the tapicers (1331), *Mem.*, 179; cutlers (1344), *ib.* 218; white-tawyers (1346), *ib.* 232; and in most of the subsequent craft ordinances printed in the *Memorials*.

29. E.g. among the glovers (1349), *Mem.*, 245; furbishers (1350), *ib.* 259; and in many other examples. The petition (1327) of the tailors and armourers of London to Edward III., printed in Clode, *Early History of the M.T.C.*, 344, does not ask for a direct monopoly, as Mr. Clode (p. 34) thinks; but only for the indirect monopoly involved in the clause, "that none may be enfranchised" (in the city) "unless he be vouched for by the best of the mystery, as good and legal and useful to the mystery." For the necessity of securing the consent of the Stewards and Wardens before setting up in business at Shrewsbury, see Hibbert, 46.

30. *Memorials*, 237, 239, 247.

31. *Ib.*, 242.

32. Herbert, i. 480.

33. *Memorials*, 258.

34. Davies, *Southampton*, 273, 276.

35. See the account of the action brought by the "Gardiani Artis seu Occupationis Sutorum," for a fine due from a man "for his upsettyng," in *Records of Nottingham*, iii. 137.

36. *Hist. MSS. Com.*, i. 109a.

37. *Coventry Weavers* (Abbotsford Club), 19 n.

38. *Hist. MSS. Com.*, iii. 247b.

39. Hibbert, *Influence, etc., of Engl. Gilds*, 63.

40. The subject of the incorporation of towns has been cleared up for the first time by Gross, *Gild Merchant*, i. 93, seq.

41. Clode, *Early History*, 37.

42. Herbert, i. 295, 366, 483.

43. *Ib.*, i. 367.

44. An additional proof of this, if any were wanted, is seen in the circumstance that the ironmongers of London (and probably other crafts) received a grant of armorial bearings before they were formally incorporated.—Nicholl, *Ironmongers*, 25, 29.

45. List in Herbert, i. 176 n.

46. Quoted in Herbert, i. 175.

47. Stubbs's remarks in *Const. Hist.*, iii. 611, as to the reign of Edward III., in relation to the companies, are open to a fourfold criticism. (1) Many of the crafts had obtained charters long before. (2) The reign of Edward III. is only important because it was long; it did not, like that of Edward I., witness the adoption of a new policy. (3) What



the crafts got were not usually charters at all, but "letters patent."  
(4) Incorporation came later.

48. *E.g.* 1392: bequest to the saddlers of London for the erection of a Common Hall, in Sharpe, *Wills*, ii. 302.

49. Herbert, i. 89, seq.

50. Cf. Schmoller, *Tucher- und Weberzunft*, 403, 404.

51. Herbert, i. 47, 427; cf. Walford, *Fairs*, 193.

51a. The payments for licenses recorded from 1474 down to 1572 in the books of the company, are not only from carpenters themselves, but from other societies and from public officials. Thus—

1506. *Rec. of John Coke Corne metr* (cornmeter) *to have lycens to set up a Shedde on london brygge* . . . . . xvid.

*Rec. of the wardeyns of the goldsmyths to have lycens to sett up an howse in watlyng strete for ii Synynets* . . . . . vis. viiid.

1151. *Rec. a Burrell of alle of the mastyrz of sent gylles bretherred for a lysens to set uppe a frame yn Wt. Crosse strete*.—Jupp, *Carpenters*, 134, seq.

52. Heath, *Grocers* (ed. 1829), 60; followed verbally by Herbert, i. 309. The last mention of the office in the books of the company is in 1687.

52a. Black, *Leathersellers*, 28. Forfeitures were to be divided between the king, or the owners of franchises, and "the Wardens and Community of the Mistery of Leathersellers." But it must be noticed that though the Wardens are given "full power . . . of making and exercising . . . due search," "such search" is to "be made by survey of the mayor," or other municipal officers, or in franchises by the lords thereof.

53. 3 Edw. IV., c. 4; *St.*, ii. 397.

54. *Memorials*, 217.

55. *Ib.*, 547. Cf. Brentano, cxlviii. At Strassburg apprenticeship was not compulsory in all guilds until the end of the fifteenth century.—Schmoller, *Tucher- und Weberzunft*, 522.

56. *Mem.*, 570.

57. 7 Hen. IV., c. 17; *St.*, ii. 157.

58. *Liber Albus*, trans. Riley, 237.

59. *Memorials*, 216, and frequently.

60. Sharpe, *Wills*, ii. 231. *Bristol Wills* in *Proc. Brist. and Gloc. Arch. Soc.*, 1882, p. 35 (1393). Cf. the *Convener Court Statutes* of Aberdeen, among which appears a rule at least as old as 1599, that "the master shall in no wise directly or indirectly, under what somever colour or pretext, give his prentiss any *backband* or discharge of any of the years contained in his indenture."—Bain, 131.

61. Sharpe, *Wills*, ii. 218.

62. 1396, in *Archæol. Journ.* xxix. (1872), 184; 1409, in Madox,

*Formulare*, No. 178; 1414, in Hibbert, *Influence, etc., of Engl. Gilds*, 52; 1451, in Rogers, *Hist. of Agric.*, iii. 738; 1480, in Cunningham, *Engl. Industry* (2 ed.), 316.

63. Fagniez, *Etudes sur l'industrie . . . à Paris*, 69.

64. Sharpe, *Calendar of Letters*, vii.

65. § 24; *St.*, iv. 420.

66. For example of terms of eight years, see Sharpe, *Letters*, 133, 169.

67. *Ib.*, 123.

68. *Ib.*, 153.

69. *E.g.* Madox, *Formulare*, 98.

70. Brentano, cl. ; Schmoller, *T.W.Z.*, 524.

71. Fagniez, 58-59.

72. *Ib.*

73. *Ib.*, 71.

74. Madox, *Formulare*, No. 178.

75. Cunningham, 318.

76. Rogers, *Hist.*, iii. 738.

77. Bain, *Merchant and Craft Gilds*, 204.

78. 12 Ric. II., c. 5 ; *St.*, ii. 57.

79. 7 Hen. IV., c. 17 ; *St.*, ii. 157. This statute was repealed so far as London was concerned by 8 Hen. VI., c. 11 (*St.*, ii. 248), which sets forth that the Londoner had of late been "grievously vexed and inquired by colour" of the Act of Hen. IV., and confirms their old custom according to which "every person which was not of villain estate or condition, but of free estate and condition, might put himself his son or daughter to be apprenticed to any freeman of the city."

80. *Hist. of Agric.*, i. 683.

81. Harrison (reprint in Camelot ed., under the title *Elizabethan England*), 11, 13.

82. Rogers, iv. 71, 72.

83. *Liber Albus*, trans. Riley, 388. Cf. the account of the London custom as to apprenticeship given in 8 Hen. VI., c. 11, and quoted in n. 79, supra.

84. *E.g.* among the *Carpenters*, Jupp. 351 (in revised ordinances of 1486-87); among the *Founders*, 13 (in petition of 1497); among the *Skinners*, *Trans. Lond. and Mid. Arch. Soc.*, v. 106; and among the *Masons*, according to the *Constitutions of Masonry*, quoted Brentano, cxxxix., n. 1.

85. *Hist. MSS. Com.*, i. 109a.

86. For examples of manumissions, see Madox, *Formulare*, Nos. 754, 755, 761, 763-765.

87. 22 Hen. VIII., c. 4 ; *St.*, iii. 321.

88. Hibbert, *Influence*, etc., 64.

89. See Held, *Zwei Bücher zur sozialen Geschichte Englands*.

90. Ochenkowski, 110 and n., 135.

91. *Memoriae*, 278.

92. 1451; Walford, *Gilds*, 198.

93. Temp. Edw. IV.; *ib.* 108. These rules were often intended to give all the masters an equal chance. Cf. the rule among the blacksmiths of London in 1452, that if a man had three journeymen he must give up one to a brother if asked; *Lond. and Middl. Arch. Trans.*, iv. 43.

93a. 1489; Williams, *Founders*, 11.

93b. 1486; *Trans. Lond. and Mid. Arch. Soc.*, v. 106.

94. Fagniez, 58.

94a. Black, *Leathersellers*, 39.

95. Drake, *Eboracum*, 212.

96. *Statutes*, iv. 420. There is an extraordinary mistake in the marginal abstract of § 21 (p. 419). This runs as follows: "Persons in Market Towns may take *Two* Apprentices;" whereas the text is, "it shall be lawful to every person . . . to have . . . to Apprentice or Apprentices the child or children," etc.

97. Brentano, indeed, says without qualification, "Whoever had three apprentices must keep one journeyman," etc., *Gilds*, clxvii. This is repeated in his *Labour and Law of To-day* (Eng. trans.), 51.

98. *E.g.* by Howell, in *Conflicts of Labour and Capital* (1st ed.), 81.

99. Clode, *Early History of the M. T. Comp.*, 201.

100. *ib.*, 200. See *infra*, p. 159.

101. *ib.*, 216.

102. Cf. the account of the journeymen's society among the shoemakers of Oxford, *infra*, p. 121.

103. 8 Eliz., e. 11; *St.*, iv. 494. It is important to observe that the qualification created by this Act was that of having been either "Apprentice or Covenant Servant . . . by the space of seven years at the least.

104. 1 Jac. 1, c. 17; *St.*, iv. 1035.

105. 12 Hen. VII., c. 1; *St.*, ii. 636.

106. 14 Car. ii., c. 5, § 17; *St.*, v. 373.

107. The municipal authorities of London seem to have given considerable attention to the question of apprenticeship. Early in 1556 it was ordered by an act of common council that no person should be admitted to the freedom of the city (and so enabled to set up in business) before reaching the age of twenty-four, nor were apprentices to be taken for fewer years than such as would bring them to that age on coming out of their time. The reason that is alleged is the great poverty lately

arisen within the city, of which "one of the chiefest occasions," it is said, "is by reason of the over-hasty marriages and oversoon setting up of households of and by the youth and young folks of the city, which hath commonly used and yet do, to marry themselves as soon as ever they come out of their apprenticeshood, be they never so young and unskilful, yea and often times many of them so poor that they scantly have of their proper goods wherewith to buy their marriage apparel, and to furnish their houses with implements and other things necessary for the exercise of their occupations."—Nicholl, *Ironmongers*, 73. Somewhat later in the same year an order of the court limiting the number of apprentices was assented to by a number of the companies, chiefly, it will be observed, those belonging to the smaller crafts; "The Wardeyns of the Founders Compy., Pasterlers, Bowyers, Tylers, Fletchers, Blakysmyths, Spurriers, Joyners, Weavers and Cordweyners, Coryers, Plomers, Prynters, Masons, Armurers, Cutlers and Pewterers dyd here appere, and were very well contentyd and agreable to stande to the order of thys Corte for the apoyntyng of the numbre of the Apprentices that ev'ry Householder of ev'ry of there fealowshippes shal receave and keepe at once, and by cause of the sayd Wardeyns of the Founders and others confessed that they had certayn Ordenances for the same effect already, they have this day seven-nyght to bring in their Bookes thereof—and as for the reasidue as yeat not having such ordenances, the Corte agreyd to call them agayne shortly."—Williams, *Founders*, 18.

108. Cf. Schmoller, *Tucher- und Weberzunft*, 412: "Der Strassburger Weber war im 14. Jahrh. wohl überwiegend Lohnarbeiter, der im Hause der Kunden oder bei sich für diese tätig war. Das Lohnwerk blieb ja auch im 15. Jahrh. das Hauptgeschäft der Weber, im Gegensatz zum Kaufwerk der Tucher."

109. Thus the (master) tilers, according to the London regulations of 1350, were to receive  $5\frac{1}{2}d.$  a day during the summer, and  $4\frac{1}{2}d.$  during the winter; their *garsons*  $3\frac{1}{2}d.$  and  $3d.$ ; the master daubers  $5d.$  and  $4d.$ , their *garsons*  $3\frac{1}{2}d.$  and  $3d.$ .—*Memorials*, 253, 254.

110. It is clear, however, from the petition from the Master Shearmen that it was the custom in that industry for the masters themselves to pay the journeymen as early as 1380. This was probably already the rule in most industries.—*Memorials*, 251.

111. Cf. Fagniez, 92.

112. As by Schanz, *Gesellenverbände*, 7, following Schmoller in his article on *Die historische Entwicklung des Fleischconsums* in the *Tüb. Zeitsch* (1871), 293. Schmoller was of opinion that the thirteenth century, especially the first half of it, saw many towns and districts in middle and

southern Germany reach a higher population than ever before, and the beginning of the fourteenth century the towns of the Hause and of Prussia; that then in many districts a diminution took place owing to pestilence and war, which was followed from 1450 onward by another period of rapid growth culminating in the period from the second half of the sixteenth century to the Thirty Years' War.

113. So Brentano, *e.g.* in *Labour and Law of To-day* (Eng. trans.), 36-38.

114. Ochenkowski, 114, seq.

115. Schmoller, *T.W.Z.*, 414, 415, 486, 520, 524, 525.

116. *English Gilds*, clvii.

117. *Memorials*, 247, 250.

118. *Ib.*, 306.

119. See, *e.g.* the Ordinances of the Cutlers, 1380, in *Memorials*, 438. For a later example of the "rating" of wages by the Court of a company, see Jupp and Pocock, *Carpenters*, 379 (anno 1563).

120. 28 Hen. VIII., c. 5; *St.*, iii. 654.

121. *Records of Oxford*, 107.

122. Cf. Schanz, *Gesellenverbände*, 18, 19; and for England notice the language of the ordinances in *Memorials*, 248, 278, 282, 307, 544, *et passim*.

122a. Case in Walford, *Gilds*, 108.

123. Levasseur, i. 456.

124. Schanz, 13.

125. Bain, *Merchant and Craft Gilds*, 100, 107.

126. Cf. Ochenkowski, 121.

127. *English Gilds*, 322. For the protection of apprentices, Clode, *Early Hist. of M. T. Comp.*, 209.

128. As early as 1831, Wilda, in his *Gildenwesen* (p. 342), had remarked that, as the journeymen were not full members of the gilds, they formed separate brotherhoods in many of the important industries, and he had called attention to the foundation in 1403 of a brotherhood of bakers' men at Copenhagen, with the consent of the town council and the bakers' gild, and also to the existence of a similar society among the journeymen brewers of Hamburg. The chief positions, moreover, of Schanz will be found already in Gierke, *Das deutsche Genossenschaft* (1868), i. 405: "Ein Hauptzweck ihrer Verbindung war ferner gegenseitige Unterstützung, so dass ihre Kasse als Vorschuss-, Kranken-, und Armenkasse diente. Endlich aber nahmen sie—and das was das Wichtigste—auch das gemeinsame gewerbliche Interesse in Fragen des Lohns, der Arbeit und der Selbständigkeit gemeinsam wahr, und führten in dieser Bezie-

hung schon in früher Zeit planmässige Koalitionen und Arbeitseinstellungen den Meistern gegenüber herbei."

129. Schanz shows their existence in Germany in the following crafts: those of the tailors, shoemakers, tanners, smiths, weavers, bakers, millers, butchers, furriers, and masons.

130. *Histoire des classes ouvrières*, i. 497.

131. See the brief reference to the subject in Cunningham, *Engl. Industry* (2nd. ed.), i. 396.

132. "Hyt ys ordened that alle the ffeleshyppe of the Bachelcrys schall holden ther ffeste at Synte John-ys day in harwaste" (temp. Edw. IV.). —*English Gilds*, 313.

133. For another example, see the remarks of Gross on the "affiliation" of mediæval boroughs, *Gild Merchant*, i. 281.

134. C. M. Clode, *Early History of the Merchant Taylors' Company* (1888); with which may be compared his earlier work, *Memorials of the Guild of Merchant Taylors* (1875), which was not accessible to the present writer when the narrative in the text was drawn up.

135. Blacksmiths, 1435; Carpenters, 1468; Drapers, 1493-1522; Ironmongers, 1497-1590; Founders, 1508-1579; Fishmongers, 1512; Clothworkers; Armourers, 1589.

136. 1570: Fox, *Some Account of the Ancient Fraternity of Merchant Taylors of Bristol*, 38.

137. Cunningham, in a paper on *Craft Guilds* (read before the Society for the Preservation of Ancient Buildings), 17. This notice refers to the weavers only; but it would appear from Dugdale that there were several journeymen's gilds in Coventry. He gives the following quaint account of them: "And now that these Citizens had thus associated themselves into the several Fraternities before mentioned, they began to have an opinion, that if any more such Gilds were allowed in this place they might receive some inconveniuece thereby: And therefore, in 1 H. 5, procured a declaratory Patent from the K. that thenceforth there should not be any new Gild erected. But the young people, viz. Journeymen of several trades, observing what merrymakings and feasts their masters had, by being of those fraternities, and that they themselves wanted the like pleasure, did of their own accord assemble together in several places of the City, and especially in S. George's Chappel near Gosford Gate; which occasioned the Mayor and his Brethren, in 3 H. 6, to complain thereof to the King; alledging that the said journeymen, in these their unlawful meetings, called themselves S. George his Gild, *to the intent that they might maintain and abet one another in quarrels*; and for their better conjunction had made choyce of a Master, with Clerks and Officers,

to the great contempt of the K. authority, prejudice of the other Gilds (viz. the holy *Trin.* and *Corp. Christi*), and disturbance of the City. Whereupon the K. directed his Writ to the Mayor and Justices with the Bayliffs of this City, commanding thom by Proclamation to prohibit any more such meetings."—*Antiquities of Warwickshire* (1666), 125. I owe this reference to Seligman's *Two Chapters on Mediæval Gilds*.

138. *Records of Oxford*, 7.

139. *Memorials*, 609.

140. It is not clear from the text whether this was simply one of the employers, or one who had filled the office of Master of the fraternity; but according to Clode, i. 61, the latter was the case.

141. Sharpe, *Wills in the Court of Husting*, ii. 403.

142. Clode, i. 63 n., gives the whole of the entry, of which Riley was only able to print part in *Mem.*, 653.

143. *Mem.*, 495.

144. *Ib.*, 542.

145. Schanz, 73, 103.

146. Printed in *Mem.*, 480.

147. *Supra*, p. 104.

148. Schanz distinguishes between "Bruderschaften," or "fraternities," whose objects were primarily religious, and "Gesellschaften," or "companies," whose objects were primarily industrial; and maintains that in some instances the journeymen of a craft had a double organization. But he confesses that in many cases the fraternity extended its action outside the religious sphere, and allows that the tendency towards association first took the form of religious fraternities. See especially 98.

149. Clode, *Early History*, 64.

150. Sharpe, *Wills*, 216.

151. Clode, 66.

152. Herbert, i. 407.

152a. Nicholl, *Ironmongers*, 47, 50, 51.

153. Clode, 65, n. 3.

154. *Ib.*, 71.

155. *Ib.*, 71, 72.

156. *Ib.*, 72.

157. *Ib.*, 73.

158. Clode speaks of the bachelor company as "the almoner of the merchant company;" but it would appear that the donations from the merchant company formed only a part of what the Wardens Substitute distributed. The "quarterages" of the bachelors themselves produced an income in the seventeenth century of about £100 a year (Clode, 69 top.



72 middle); and it must be remembered that the merchant company were indebted to the bachelors for £400 towards building of their hall.

159. Copied by Mr. Tyssen, and printed by Mr. Coote, in his paper, "Ordinances of some Secular Guilds of London," in *Trans. Lond. and Middlesex Archæol. Soc.*, iv. (1874), p. 32.

160. Jupp and Pocock, *Account of the . . . Carpenters*, 331. In 1650 the "young men" petition the Court about some grievances, *ib.*, 471. But at least as early as 1573 the term "yeomanry" is used to designate the ordinary freemen as distinguished from the livery: *ib.*, 392. Probably, as a rule, the ordinary freemen, who were not liverymen, were employed by masters. But at first it would seem that there were three orders: the livery, the masters not in the livery, and the yeomen. See the example from the Drapers' Company given in the text.

160a. Herbert, i. 406. Cf. 443 for its existence at least as late as 1522.

160b. Nicholl, *Account of the . . . Ironmongers*, 50, 115, 47, 53. For "a supplication of the yeomanry" in 1564, see 81. By 1568-9, however, if not before, "livery" and "yeomanry" had become mutually exclusive and jointly inclusive terms for all the members; cf. n. 160 *supra*. As late as 1590 the yeomanry had their own wardens, accounts, and festivities: *ib.*, 127.

160c. Sharpe, *Wills*, ii. 618, 712.

160d. Herbert, ii. 657, notes, col. 2.

160e. Williams, *Annals of the . . . Founders*, 14.

160f. Lambert, *Two Thousand Years*, 205, 216.

161. An "Award touching the Shoemakers and their Journeymen," in *Records of Oxford*, 7. It may be noticed that "to go on the box" is still in some places the term for having recourse to the funds of friendly societies in time of sickness.

162. See n. 137, *supra*.

162a. Fox, *Merchant Taylors' Guild, Bristol*, 38. The following clauses are especially interesting:—

(1) Imprimis that the wardens of the jorneye men doe waren all the jorneye men to come to the Halle and there to pay theyr quarteredge to the wardens for that tyme, the Monday before the quarter daye.

(4) Item, that the mony that is geathered every quarter by the wardens be put into the chest in the preasance of all the jorneye men to be kept for those yt be sick or aged or fallen into poverty by the hand of God.

(8) Item, that yf any jorny man be warned by any of the wardens appoynted for that yeare to come to the hall and doth absent him selfe w'hout just cawse he shall pay for the first defaute iiiid., the second viiid., and the third xiid.

(9) Item, that yf any man refuse to pay this fyne he be expelled and put out of the company for ever.

(10) Item. when any jorny man is expelled for this cawse or any other yf there be any master, yf there be any I say, that puttethe him to worke he shall pay for every tyme, viz. viiid.

163. Schanz, 137, and n. 2.

164. Levasseur, i. 498; Schanz, *Gesellenverbände*, 25.

165. *Handel u. Industrie der Stadt Basel* (1886), 45.

166. For a good example of liveries worn by a religious gild, see *Hist. MSS. Com.*, vi., 413 (x).

167. *Prologue to Canterbury Tales*, 363-380.

168. Stubbs, *Const. Hist.* (Libr. Ed.), iii. 573.

169. i. 61.

170. *Rotuli Parliamentorum*, iii. 266, 267.

171. This ordinance, of which a copy survives only in the form of a writ to the Sheriff of Kent, is printed in the *Statutes of the Realm* (ii. 74), as 13 Rich. II., stat. 3.

172. Heath, *Grocers*, 49, 50; Herbert, i. 62, 63.

173. For an account of *Maintenance*, see Stubbs, *Const. Hist.*, iii. 575.

174. *Rot. Parl.*, iii. 307.

175. There is a curious little difference between the answer as it appears in the *Rolls* and as it appears in the *Statutes*, which may have been not without a meaning. In the *Rolls* it is "Le Roy voet, que null Yoman, ne null autere de meindre estat qu' Esquier, desore en avant ne use ne port null *tiel* Signe ne Livere (including therefore the crafts), s'il ne sort meignal et familier, continuelment demurant en l' Ostell de son Seigneur." In the *Statutes* (ii. 84; 16 Rich. II., c. 4), *tiel* is omitted, and after *livere* is inserted "*appelle livere de compaignie dascun seigneur.*"

176. 20 Rich. II., c. 2; *St.*, ii. 93. *Rot. Parl.*, iii. 345.

177. 1 Hen. IV., c. 7; *St.*, ii. 113.

178. 2 Hen. IV., c. 21; *ib.*, ii. 129.

179. 7 Hen. IV., c. 14; *ib.*, ii. 156.

180. 13 Hen. IV., c. 3; *ib.*, ii. 167.

181. 8 Edw. IV., c. 2; *ib.*, ii. 428.

182. Stowe, *Survey*, ed. Morley, 443.

183. *Const. Hist.* (Libr. Ed.), iii. 637.

184. For instance, in Norwich the enrollment of the names of citizens in the city registers under the several crafts,—which was, of course, a victory for the misteries,—was first ordered "in the Composition between the two dissentient portions of the community made in 1415, and

seems to be part of the movement of the commons against the Twenty-four citizens."—Hudson, in *Archæol. Jour.*, xlv. 328.

185. See the *Pictorial History*, bk. iv. ch. vi. (ed. 1841, ii. 870).

186. Herbert, i. 92.

187. *Ib.*, i. 406.

188. See the interesting account *s.a.*, 1602 in Clode, *Early Hist. of M.T.C.*, i. 44.

188a. See nn. 160, 160b, *supra*.

189. Herbert, i. 107.

190. Clode, *Early Hist.*, 46. The supposition of Herbert, i. 53, that "the first hint" of a court of assistants is to be found in the six persons chosen to assist the wardens of the grocers in 1379, seems to be absurd.

191. Herbert, i. 118.

192. Hunt, *Bristol*, 82.

193. Geering, 39, 40.

194. Levasseur, *Classes ouvrières*, ii. 97, 98.

195. This distinction is clear as early as 5 Edw. VI.; Herbert, i. 103 n.

196. *Ib.*, i. 37 n.

197. *Ib.*, i. 223.

198. The assessments will be found in Herbert, i. 135, 143, and in Clode, i. 405.

199. Cf. Geering, 45.

200. Hallam, *Middle Ages*, ch. iii.

201. Levasseur, i. 482.

202. Geering, 30–35.

203. 5 Eliz., c. 4, § 20; *St.*, iv., 419.

204. See the definition of chantry in Fuller, *Church History*, iii. 468. A good example of commemoration will be found in Sharpe, *Wills*, ii. 532.

205. As to the common mistake of identifying "chantry" with "chantry-chapel," see Maclean, in *Chantry Certificates*, 1–3.

206. *Paston Letters*, ed. Gairdner, i. 460.

206a. In the *Chantry Certificates*, ed. Maclean.

207. *Bury Wills* (Camden Soc.), 62.

208. First draft in *Paston Letters*, i. 459. Cf. later versions also given there.

209. Toulmin Smith, in *Engl. Guilds*, xxviii., xxix.

210. It is impossible not to agree here with Brentano's criticism of Toulmin Smith, *ib.*, lviii., lxxxv.–lxxxvii. Cf. Fox, *Merchant Taylors of Bristol*, 5.

211. There are frequent instances in *English Guilds*. Cf. *Church*

*Ales*, and also the Bridport Brotherhoods in *Hist. MSS. Com.*, vi. 478 479.

212. Mr. Toulmin Smith, anxious to maintain that religious objects were secondary, has called attention to the case of the Gild of the Blessed Virgin at Cambridge. Here, according to his own abstract of the ordinances, "if the funds of the gild fall below ten marks the finding of a chaplain shall stop, and the goods of the gild shall be then bestowed *on the maintenance of a light and of the poor brethren*."—*Eng. Gilds*, 271. It is abundantly clear from other instances in the same volume that the maintenance of a light was by no means unattended with expense; so that to say, as Mr. Smith does, that "if their funds get too low to maintain a chaplain and the poor brethren, the chaplain is to be stopped" (xxix.), and "there shall be a chaplain when they can afford it, but help to the poor brethren comes before this" (271, marginal abstract), and to omit to mention the light, is likely to produce an inaccurate impression.

213. E.g. *Engl. Gilds*, 14, 15, 17, 67, and frequently.

214. E.g. *ib.*, 74, 271.

215. Many examples, *ib.* See, e.g., 67, 69, 71, 74.

216. See the accounts of the Brotherhoods at Bridport, where it is clear that the giving of relief to poor members is a very subordinate part of their activity, *Hist. MSS. Com.*, vi. 478, 479; and the account of the wealthy Fraternity or Gild of the Holy Trinity at Luton in Bedfordshire, *ib.*, iii. 2067, where there is no trace of relief to the poor.

217. Weaver, *Wells Wills*, Pref. vi.

218. The list is clearly incomplete, since, for instance, it does not include the two or three gilds in Scarning, given in Carthew, *Hundred of Launditch*, part iii. (1879), p. 308.

219. Rd. Taylor, *Index Monasticus* (for Norwich) (1821), 71.

220. E.g. *Hist. MSS. Com.*, vi. 411b.

221. Sharpe, *Wills*, ii. 533; Maelean, *Chantry Certificates*, 11; *Bury Wills*, 57, 62.

222. As Toulmin Smith suggests, *Eng. Gilds*, 259 n.

223. A convenient list is given in Gross, *Gild Merchant*, i. 114 n. 3.

224. Geering, *Basel*, 16, 26.

225. Herbert, i. 482.

226. Clode, *Early History*, i. 110.

227. Herbert, i. 294.

228. *Ib.*, ii. 531, 532.

229. See Stahlschmidt, in *Archæol. Journ.*, xliii. 161, for this and other instances.

230. Fox, *Merchant Taylors of Bristol*, 5.

231. Maitland, *Edinburgh*, 305.

232. *Eng. Gilds*, 179.

233. *Ib.*, 182.

234. Geering, 26.

235. This would seem to be the case at Norwich with the barbers' gild, *Eng. Gilds*, 27; the gild of "pelytyers and other good men," *ib.*, 29; the tailors' gild, 33; the carpenters' gild, 37; the saddlers' and spurriers, 42. These may, however, have afterwards assumed industrial functions.

236. Thus, in the will of a skinner of London, dated 1439, we read, "I bequeath to the brotherhood of my craft of Corpus Christi, to the common box therof, 6s. 8d., and to the common box of the brotherhood of Our Lady in my craft, 6s. 8d."—*Fifty English Wills*, ed. Furnival (E.E.T.S.), 113.

237. Levasseur, *u.s.*, i. 470.

238. Gierke, *Genossenschaftsrecht*, i. 385; Levasseur, i. 468.

239. On these "colleges," see Jessopp, *Visitation of the Dioc. of Norwich* (Camden Soc., 1888), *Introd.*, viii.

240. 37 Hen. VIII., c. 4; *St.*, iii. 988.

241. Five are given in *Eng. Gilds*, 196, 202, 221, 247, 259.

242. The criticisms of Toulmin Smith, *ib.*, 197, 221, 247, would seem to be quite unnecessarily severe.

243. Toulmin Smith remarks (*ib.*, 203, n.) that "this was thus put in order to gloss over the intended seizure of the property of this gild," and points out that while the old school taught a hundred boys (as the friends of the gild alleged), the new school was only for forty boys. But it is noticeable that even the gild had suspended its school for the last four or five years in order to repair with its revenue the city walls and bridge and the gild's own property, *ib.*, 205.

244. *Ib.*, 221, 247, 260.

245. "Also there be dyvers pore people ffounde, ayded, and suckared of the seyde Gylde, as in money, Breade, Drynke, Coles," etc., Gild of St. Cross of Birmingham, *ib.*, 247.

246. The expenses of the whole proceeding, including the "meat and drink ordained for them that was appointed to make the book for the certificate of the Chuntries," the "pains of writing the book," the cost of legal opinions, the "refection at the Mermaid Tavern when wo put in our book to the Commissioners," etc., are set forth in Clode, *Early Hist.*, 142.

247. So we may fairly interpret Clode, 143, and n. 2.

248. 1 Edw. VI., c. 14; *St.*, iv. 24. It is inaccurate to speak, as many

writers do (*e.g.* Hibbert, *Influence of Eng. Gilds*, 67), of this act as "a renewal of the grant" made by the Act of 1545.

249. *U.s.*, 144. Mr. Clode well describes the change, so far as the companies were concerned, as the "disendowment of religion."

250. So Hibbert, *u.s.*, 71, following Dixon, *Hist. of Ch. of England*, ii. 462,—a passage, however, which had been substantially modified in the second edition.

251. *Hist. of the Reformation*, ii. 94.

252. Gross, *Gild Merchant*, i. 161, 162; ii. 158, seq.

253. *St.*, ii. 27.

254. Herbert, i. 114.

255. Madox, *Firma Burgi*, 31 n. y. For an example of the payments "for makynge of wryttings to bere before ye Commyssioners at ye skyners hall," Jupp and Pocock, *Carpenters*, 29.

256. *E.g.* by the merchant taylors: "To Mr. Brooke, Recorder of London, for his advice given in making one book of certificate as touching what priests, obits, lamps, and lights are found and kept by the Company, and what lands and other thing was given for the maintenance thereof, and how long they should endure, 13s. 4d.," Clode, 145.

257. Although various difficulties were raised concerning "concealments" late in the reign of Elizabeth, from 1582 onward; Herbert, i. 158, seq.

258. Clode, 144.

259. *Ib.*, 145.

260. Jupp and Pocock, *u.s.*, 29, 394.

261. According to Stowe, quoted in Clode, 147. That from the Twelve Great Companies alone was apparently £734 11s. 5½d., according to Herbert, i. 117 n.

262. *Chantry Certificates* for Bristol and Gloucestershire, printed by Maclean in *Trans. Bristol and Glo. Arch. Soc.*, viii.; *Somerset Chantries, Survey and Rental*, ed. Green for the *Somerset Record Soc.*, ii. (1888).

263. Fox, *Merchant Taylors of Bristol*, 32.

264. Maclean, *Chantry Certificates*, 20.

265. This has been repeatedly stated by Thorold Rogers, *e.g.* in *Econ. Interpretation*, 15: "Few parishes were probably without guild lands from which the aged and the poor were nourished, till, on the plea that they were devoted to superstitious uses, they were stolen under an Act of Parliament by Protector Somerset." Most recent writers have followed him without further examination. Cf. with the argument in the text, the reviews of Roger and Cunningham by the present writer in the *Political Science Quarterly* (New York), 1889 and 1891.

266. *E.g.* Maclean, *Chantry Certifs.*, 33, and also the note appended to the next parish on the list.

267. Stowe, quoted in Clode, 147.

268. On the details of the Merchant Taylors' sales, see Clode, 151, 371, and Appendices, 17, 18. For the other companies, see the list in Herbert, i. 115 n.

269. This is according to Herbert, i. 115; but that the figures there given are not absolutely correct is apparent on comparing those given for the Merchant Taylors with those in Clode, 371.

270. This seems to be the meaning of Herbert, i. 117 n.

271. So, at any rate, in the fifteenth century, Rogers, *Hist. Agric.*, iv. 3. Cf. the rates of rent-charges given by Neumann, *Geschichte des Wuchers*, and referred to in the chapter on *The Canonist Doctrine*, *infra*.

272. The preamble, together with so much of the letters patent as relates to the Ironmongers' Company, will be found in Nicholl, 67. The character of the transaction is perfectly clear. The king, in return for their share of the £18,744 11s. 2d., which he acknowledges having received, grants "all that our annual receipts and sum of £7 7s. 8d., issuing out of a messuage of the master, wardens and community of the mistery of Ironmongers, situate and being in the Poultry . . . which said sum receipt or annuity the said master, etc., lately paid and were accustomed annually to pay to the support of a priest officiating in the church of S. Olave, in the Old Jury," and then follow four other clauses of exactly the same form relating to four other payments for anniversaries.

273. According to Clode, 149, though I have not been able to find the statute.

274. Rogers, *Econ. Interp.*, 306.

275. The phrases of Cunningham, *Engl. Industry (Middle Ages)*, 465, and n. 4.

276. The phrases of Rogers, *Six Centuries of Work and Wages*, 346, and *Index*.

277. The language of Brentano, *Eng. Gilds*, clxiii., copied verbatim by Howell, *Conflicts of Labour and Capital*.

278. Rogers, *Hist. of Agric.*, iv. 6.

279. There is some force in Mr. Froude's argument, *Pilgrim.*, Pref. vi., vii., at any rate so far as it regards the measures of disendowment of religion.

280. Rogers, *Hist. of Agric.*, iv. 6. Cf. *Econ. Interp.*, 348: "Somerset did not venture on appropriating the estates of the London gilds, for London had it in its power to make revolutions, and they were spared



after ransom paid." It would be hard to pack more inaccuracies in a short sentence.

281. It is not always easy to agree with the enthusiastic historians of the great London companies, but as to this, which is altogether a question of fact, it is impossible not to sympathize with Mr. Clode's criticism of the extraordinary statements contained in the *Report* of the Livery Companies' Commission, 1884.

282. Cf. with the development in England, the action of the government towards the *confréries* in France, Levasseur, ii. 113, 116, 117, 119, 122, 129.

283. R. Davies, *Extracts from the Municipal Records of York* (1843), Appendix.

284. Wodderspoon, 170, seq.

285. *Weavers' Pageant* (Abbotsford Club), 20.

286. Walford, *Gilds*, 200, seq.; Hone, *Miracle Plays*, 213, 214.

287. Hone, *u.s.*, vi. ; *Chester Plays*, xix.

287a. For the influence of puritanism in Shrewsbury, see Hibbert, 121.

288. Hunt, *Bristol*, 51, 52.

288a. Lambert, *Two Thousand Years*, etc., 204, 207.

289. 1 & 2 Phil. and Mar., c. 7, § 3; *St.*, iv. 245.

290. 5 Eliz., c. 4, § 27; *ib.*, iv. 420.

291. 8 Eliz., c. 7; *ib.*, iv. 489.

292. Cunningham, *u.s.*, 465, n. 4.

293. 8 Eliz., c. 11, § 3; *St.*, iv. 494.

294. Hibbert, 59, 87.

295. 6 Hen. VIII., c. 26; *St.*, iii. 157.

296. 14 & 15 Hen. VIII., c. 16; *ib.*, iii. 232.

297. 26 Hen. VIII., c. 19; *ib.*, iii. 517.

298. 34 & 35 Hen. VIII., c. 27; *ib.*, iii. 939.

299. 37 Hen. VIII., c. 25; *ib.*, iii. 1020.

300. 2 & 3 Edw. VI., c. 36; *ib.*, iv. 78.

301. 7 Edw. VI., c. 12; *ib.*, iv. 178.

302. A long list of these acts will be found in Brady, *Hist. Treatise on Cities and Boroughs* (1690).

303. *E.g.* the drapers of Shrewsbury, Hibbert, 59, 84. So, again, if we judged only from the charter granted to the founders of London in 1614 (Williams, *Founders*, 25), we should conclude they had possessed no sort of organization before. They had, however, elected Masters as early as the fourteenth century, and in 1531 they had bought a hall.

304. 15 Hen. VI., c. 6; *St.*, ii. 299.

305. 19 Hen. VII., c. 7; *ib.*, ii. 652.

305a. Thus the founders in London had a good deal of trouble in 1508 with a certain John Sandford, "one of the simplest persons of all the fellowship," who "of evil and great malice presented the Wardens unto the Cheker, for that they had made an act contrary to the parliament, whereupon they were tried by the law, which gave the craft great cost, and put the wardens in great fear, that they durst do no punishment in the time of their year, nor gather no quarterage, nor take no money for abling of no prentices."—Williams, *Founders*, 13; cf. 16.

305b. *E.g.* Milbourn, *Vintners*, 39.

306. *E.g.* *Oxford Records*, 341; Fox, *Merchant Taylors of Bristol*, 55.

307. *Supra*, 28.

308. *Supra*, 104; but cf. also n. 119.

309. Cf. Brentano in Schönberg's *Handbuch der politischen Oekonomie* (1st ed.), 911, seq.

310. Oxford, 1572; *Records*, 341.

311. Newcastle; Walford, *Gilds*, 194.

312. Oxford, 1569; *Records*, 231. Cf. also on this "amalgamating movement" the *Preface*, 26, of W. C. Hazlitt's *Livery Companies*—a work which has appeared since the present chapter was written. Mr. Hazlitt points out that in London the amalgamation was usually of *allied* trades; but this was by no means universally the case in the smaller towns.

313. Newcastle, 1675; Walford, *u.s.*, 208.

314. Gross, *Gild Merchant*, i. 121.

315. *E.g.* slaters and tilers in Newcastle; Walford, 198.

316. Drake, *York* (8vo ed.), iii. 132.

317. See Bain, *Merchant and Craft Guilds*.

318. Maitland, *Hist. of Edinb.*, 309.

319. Walford, 222.

320. *Ib.*, 220.

320a. *Report of Livery Companies' Commission*, iii. 12.

321. Walford, 199.

321a. Black, *Leathersellers*, 37, 38, 42, 47, 48.

322. Sharpe, *Wills*, ii. 671.

323. See Herbert, i. 174, seq., on "the rage for incorporation." There were, however, a few instances of combination in the early years of the reign. Thus the Pinnars, Wyerworkers, and Girdlers were united by a charter of 10 Eliz.; *Livery Comp. Com.*, iii. 452. The Blacksmiths were united to the Spurriers in 1571; *ib.*, 110.

324. Maitland, 299.

325. *Geschichte der Städteverfassung*, ii. 705, 715.

326. GROSS, *u.s.*, ii. 199. Cf. for Ipswich, Wodderspoon, 176, 177; and for Axbridge, *Hist. MSS. Com.*, iii. 302,—Order that as there have hitherto been three companies in the town, those of the Drapers, Leathermen, and Firemen (smiths of various kinds), all householders who shall keep a shop or station or who shall abide or keep a family within the borough shall be made to enter one of the three. In the case of a private man, following no trade, he shall choose such company “as he himself liketh to be free of” under penalty of 20s.

327. With Rogers it is a policy of conscious oppression; with Cunningham, one of wise reorganization and regulation.

328. This is apparent, *e.g.*, in following the French legislation in Levasseur.

329. Schmoller, *Tucher- und Weberzunft*, 530, seq.

330. Cf. Gardiner, *Introd. to Engl. Hist.*, 51.

331. Schmoller, *T.W.Z.*, 532.

332. Cf. Schmoller, *Kämpfe*, 67.

333. Cf. Schönberg, in his *Handbuch*, 838.

[NOTE.—To the bibliography which precedes this chapter must be added the two following works which have more recently appeared:—W. Carew Hazlitt, *The Livery Companies of the City of London* (1892),—based mainly on the *Report* of 1882; and James Colston, *The Incorporated Trades of Edinburgh* (1891),—based chiefly on Maitland and the *Records* published by the Scottish Burgh Records Society.]

## CHAPTER III.

### THE WOOLLEN INDUSTRY.

[AUTHORITIES.—The chief sources of information on this subject are the *Statutes of the Realm*, and their indispensable supplement, the *Rolls of Parliament (Rotuli Parliamentorum)*. A useful guide to the statutes will be found in the *Memoirs of Wool* of John Smith, of which the first edition, in 2 vols. 8vo, appeared in 1747; and the second, in 2 vols. 4to, in 1756. This work gives sufficient excerpts from most of the pamphlets on the woollen trade and the cloth manufacture down to the date of its publication; so that it is of even more service for a later period. On the policy of the early years of Edward III. some fresh light is thrown by the new *Calendar of the Patent Rolls (1327–1330)*, issued by the Deputy Keeper in 1891. Many important documents relating to the history of the London weavers in the fourteenth and fifteenth centuries are printed in Madox, *Firmi Burgi* (1726). For contemporary foreign conditions Schmoller's *Strassburger Tueher- und Weberzunft* (1879), and Fagniez, *Etudes sur l'industrie et la classe industrielle à Paris au xiii. et xiv. siècles* (1877), are most helpful; and the former book is rich in suggestion with regard to the whole industrial movement. John James's *History of the Worsted Manufacture* (1857) contains a convenient synopsis of legislation; and this may be supplemented by the scattered notices in Blomefield's *History of Norfolk*, of which the second volume, devoted to Norwich, appeared in 1845. For the state of popular feeling towards the clothiers, the contemporary pamphlets published by Pauli under the title *Drei volkswirtschaftliche Denkschriften aus der Zeit Heinrichs VIII.*, in the *Abhandlungen der K. Gesellschaft der Wissenschaften* of Göttingen (1878), are indispensable. The beginnings of the domestic system can hardly be properly understood without paying some attention to its condition when it was about to be swept

away by the industrial revolution due to machinery; and this can be well studied in Held, *Zwei Bücher zur socialen Geschichte Englands* (1881), but best of all, for the present purpose, in the *Report from the Committee of the House of Commons on the Woollen Manufacture of England*, together with the appended evidence (1806). John Burnley, *History of Wool and Wool-combing* (1889), is instructive for modern times, but has little historical matter. As to the refugees of the sixteenth century, the only book that attempts to cover the whole ground is J. S. Burn's *History of the Foreign Refugees* (1846), which is scholarly and full of information. For the migration to Norwich, however, it has been superseded by the documents printed in *The Walloons and their Church at Norwich, their History and Registers, 1565-1832*, published (1887-88) by the Huguenot Society of London, which are introduced by an exhaustive narrative by W. J. C. Moens. The *History* has been separately reprinted under the title of *The Walloons and their Church at Norwich* (1888). It is proper to add that a large part of the following chapter has been taken, with considerable emendation and correction, from an earlier essay by the author, *The Early History of the English Woollen Industry*, in the Publications of the American Economic Association, ii. 4 (1887).]

§ 42. THE history of English wool and cloth has a twofold interest: it explains the origin of the wealth of England, and it illustrates, with peculiar clearness, the development of industry. In the later Middle Ages wool was the one important article of export from England,—an article of which that country practically enjoyed the monopoly in the north-west of Europe, so that its control formed a powerful weapon in diplomacy, and its taxation furnished an easy means of increasing the royal revenue. But England was not content thus to furnish Europe with the raw material: its government made continuous and strenuous efforts to gain for it the manufacture also; and its measures succeeded. Cloth became “the basis of our wealth;”<sup>1</sup> and at the end of the seventeenth century, woollen goods were “two-thirds of England’s exports.”<sup>2</sup>

Still more interesting is the woollen industry from the point of view of the economist. Food and clothes are the

two primary necessities of human life, and play a correspondingly important part in social history. It is significant that the bakers and weavers stand side by side in the earliest notices of craft guilds in England.<sup>3</sup> No one who is acquainted with mediæval legislation need be reminded of the care with which the public authorities supervised the sale of corn and bread. But bread could only be made in comparatively small quantities; it could not be made for a distant or for a far-future market. This, of course, was equally true of all articles of food, before the creation of the modern means of rapid transit and the discovery of methods of preservation; and since the "division of labour is limited by the extent of the market,"<sup>4</sup> it was not in the production of food that any considerable manufacturing development could take place. With clothing it was far different. A necessary, but a necessary which would "keep," it was the very first article for the manufacture of which a special body of craftsmen came into existence. And from the first, a strong tendency towards further specialization showed itself among those employed in the industry. Wherever the conditions were favourable, especially as to the supply of the raw material, the manufacture soon began to supply a more than merely local demand; and this not only encouraged that division of processes which had been early seen to be advantageous, but tended also to create a class of dealers as distinguished from the actual makers.

To these causes it was due that the woollen manufacture was the first to take the form of the guild, and the first to break through its limits; that it became the most widely spread of "domestic" industries, and therefore that in which the factory system gained its most hardly won and signal victory.

We have already noticed in previous sections the first appearance of guilds of weavers in the early part of the twelfth century, and the collision of interests which arose between them and the body of burghers.<sup>5</sup> We have seen the large powers which the court of the London weavers enjoyed at the beginning of the fourteenth century ;<sup>6</sup> and the monopolizing tendency,—needing to be checked by appeal to the royal courts,—which even thus early the London weavers exhibited.<sup>7</sup> We have seen also that the shape and quality of manufactured woollen cloths was placed under the supervision of a special officer, the *aulnager*.<sup>8</sup> The purpose of the present chapter will be to trace the fortunes of the industry from the middle of the fourteenth century to the middle of the reign of Elizabeth ; a story which will fall naturally into three main divisions : (1) the first great immigration of foreign artisans, in the reign of Edward III., with the consequent expansion of English manufacture, and the beginning of manufacture for export ; (2) the transition in the fifteenth and sixteenth centuries from the guild system proper to what became known in a later period as “the domestic system” of industry ; and (3) the second great immigration of foreign craftsmen, and the establishment of “the new draperies,” *i.e.* the manufacture of the finer qualities.

That woollen cloth was made in England in considerable quantities in the thirteenth century is shown by the importance assigned to the “assize of cloth ;” and that much of this cloth was dyed is proved by the large importation of woad.<sup>9</sup> But, as compared with the Low Countries<sup>10</sup> and the great Rhenish cities,<sup>11</sup> the manufacture was in a very backward condition. No cloth was manufactured for export ; and a great part of even the English demand for cloth,—indeed, the whole of the demand for the finer qualities,—was met by importation. Yet it was from England that Flanders and



the neighbouring lands obtained well-nigh the whole, if not the whole, of their supply of the raw material; and it could hardly fail to suggest itself to Englishmen that there could be no insuperable obstacles in the way of their working up their own produce. It seems to have been thought at first that this could be brought about by prohibiting the export of wool. Deprived of their accustomed supply of the raw material, foreigners would find it more difficult to manufacture cloth for import into England; there would consequently be a greater demand at home for English manufactures, and at the same time English craftsmen would get their yarn more cheaply now that the wool had to be used up within the country.

The earliest instance of the prohibition of export is found in the action of the Oxford parliament of 1258. The barons then "decreed that the wool of the country should be worked up in England, and should not be sold to foreigners, and that every one should use woollen cloth made within the country;" and lest people should be dissatisfied at having to put up with the rough cloth of England, they bade them "not to seek over-precious raiment."<sup>12</sup> Perhaps we may trace a similar idea in what is told us by a chronicler opposed to Simon de Montfort, how that when the piracy of the sailors of the Cinque Ports had put an end to trade, and people began to complain, the Earl tried to persuade them that they could get on very well without traffic with foreigners; "whereupon very many seeking to please the Earl wore white cloth, disdaining to wear coloured."<sup>13</sup>

Another attempt was made in 1271, when the exportation of wool was again prohibited, and, what is more significant, the importation of cloth also forbidden.<sup>14</sup> But this order was revoked in 1274. No doubt the main object of these measures was to force the rulers of Flanders to satisfy the

political demands of the English government, and it was hardly expected that the prohibition would be enforced longer than was necessary to bring the Flemish rulers to terms. Even much later, when there was a thriving English manufacture, the industrial protective policy of the government was continually being crossed and suspended by temporary political motives. But the repeated experiments had probably this result: they made it clear that for the making of the finer sorts of cloth, and cloth of richer and more varied dyes, Englishmen did not yet possess the necessary skill. The government of Edward III. saw that if England was to do without Flemish cloth, Flemish workmen must be brought over. Accordingly, it resorted to the measure which all European governments that wished to encourage the growth of a manufacture found it necessary to employ, down to a period much later than the Middle Ages. It turned its attention not so much to the prohibition of foreign wares as to the importation of foreign skill.<sup>15</sup> It may be said to have realized that what was needed was not,—to use the phraseology of Friedrich List,—the creation of “values of exchange,” but the creation of “productive powers.”<sup>15a</sup>

The condition of affairs in the Low Countries, especially in Flanders, was such as to render it easy to attract artisans to England. The crushing defeat of the Flemish artisans at Cassel in 1328, by the combined forces of their count and of his suzerain Philip of Valois, was followed by rigorous measures against the guilds, and by the wholesale banishment of hundreds of workmen from each of the great cities—Ghent, Bruges, and Ypres.<sup>16</sup> Moreover, there was continually going on in Flanders, and probably also in the neighbouring principalities, a struggle on the part of the villages and small towns to evade the more or less complete monopoly of the manufacture of cloth claimed by the great centres.<sup>17</sup>

Accordingly all that it was necessary for Edward III. to do was to promise protection to such as should care to cross to England. The first of these letters of protection that is extant was issued in 1331 to "John Kempe, of Flanders, weaver of woollen cloth." After reciting that Kempe had come with certain servants and apprentices to England for the sake of exercising his craft, and in order to instruct and inform those who wished to learn it,<sup>18</sup> it announced that the king had taken Kempe and his workmen into his protection, and promised similar letters to all other men of that craft, as well as to all dyers and fullers who were willing to enter the kingdom. A similar letter was granted in 1336 to two weavers of Brabant who had settled at York; the king declaring that he "expected through their industry, if they carried on their occupation in England, that much advantage would result to himself and his subjects;"<sup>19</sup> and another in the next year to fifteen makers of cloth, who with their labourers and servants were about to come over from Zeeland.<sup>20</sup> But the government did not content itself with protecting occasional immigrants. A complete declaration of policy is presented by a statute of 1337.<sup>21</sup> It offers protection to all foreign clothworkers who shall come into the country, promising moreover to grant them "franchises as many and such as may suffice them;" it frees the newcomers from all restrictions as to aulnage,—“a man may make the cloths as long and as short as a man will;” it totally prohibits the importation of foreign cloth, and even the very wearing of it by any, great or small, except the royal family; and it prohibits the exportation of wool until otherwise provided. The contemporary chronicler is of course right in the immediate object which he assigns to the prohibition of export,—“that the king might the more quickly overcome the pride of the Flemings, who

respected woolsacks far more than they respected Englishmen.”<sup>23</sup> Edward certainly found the order a tolerably effective means of coercion: the misery which it caused in Flanders and, above all, in Ghent, had the effect of alienating the people more than ever from their count, and of bringing James van Artevelde to the head of affairs.<sup>23</sup> The English king was not able to obtain at once the open support of the Flemings; but in order to gain their neutrality he readily permitted wool to be exported and cloth to be imported. To win their favour he was even willing to promise that goods marked with the seal of Ghent should be exempt from examination in the English markets.<sup>24</sup> Yet, though the immediate political purpose had been predominant, it is clear from the very juxtaposition of clauses in the statute of 1337 that it was also thought of as assisting the new woollen manufactures in England.<sup>25</sup>

The favourable terms offered by the act to foreigners were at once proclaimed in London and in all the counties of the realm: and this invitation was largely responded to.<sup>26</sup> A few years later the stream of immigration was swollen by the advent of hundreds of banished and refugee craftsmen, principally weavers, who were forced to quit Flanders upon the restoration of oligarchic rule. There had been pitched battles in the streets of Ghent and Ypres between the weavers and the forces of the oligarchy, and the craftsmen had been hopelessly beaten.<sup>27</sup> The craftsmen had been fighting for their own claims, but they had also been in alliance with England, so that Edward not unnaturally described the “many men of divers crafts of Flanders who had come to England to exercise their crafts and to gain their bread by their own labours,” as “banished from those parts owing to their adhesion to our cause.”<sup>28</sup>

The appearance of these foreigners was most unwelcome to the English artisans. Most of them, doubtless, settled at first in London; and they must have excited the bitterest animosity in the minds of the London gild, which was now a comfortable little body of some eighty weavers living in or about Cannon Street, who had for some time,—as we learn from the report of the indictment against them in 1321,—been pursuing the policy of limiting their numbers in order to increase the price of labour.<sup>29</sup> The new-comers were attacked and threatened until they were afraid to remain; and in 1344 the government found it necessary to send a special writ to the mayor and sheriffs.<sup>30</sup> They were enjoined to cause it to be proclaimed that the king had taken the foreigners in London under his special protection, and they were to imprison in Newgate all whom they found disregarding the proclamation. But if the foreigners were to stay in London, the weavers' gild would be sure to try to make them become members and pay their due contribution to the ferm. In 1351 "the poor weavers of London" represented to the king in parliament that Henry II. had given them a charter conferring upon them a monopoly of their craft, in return for which they were bound to pay twenty marks yearly, but that now, taking advantage of the proclamation of 1337, foreigners had come into the city and were making gain, and yet were free from the burden of contributing to the ferm. They prayed, therefore, either that they might have jurisdiction over the foreigners, or that they themselves might be freed from the ferm.<sup>31</sup> The matter was referred to the Exchequer, and there Nicolas of Worsted appeared on behalf of the London weavers and complained that Giles Spolmakere, with four other persons in London and one in Southwark, "foreigners who are not of the gild," had meddled with their industry, making all

sorts of rayed and coloured cloth, and yet would not be subject to the jurisdiction of the gild.<sup>32</sup> Proceedings, however, were stayed by a royal writ which Giles had just obtained and now produced. It set forth that the king had promised to protect the foreigners so long as they paid what they ought, and that many of them had willingly paid their share of the twenty marks as assessed by the gild itself; and yet the English weavers kept on trying to force them to belong to their gild, and to come to its courts.<sup>33</sup> The king therefore ordered that Giles and the other foreign weavers should not be molested because they did not belong to the gild of weavers of London,<sup>34</sup> and that the trial should go no further.

Next year the government showed even greater favour to the foreigners. In reply to a petition addressed to the sovereign in parliament by the alien weavers, "the king . . . did, with the assent of the prelates, earls, barons, and other great men assembled in this said parliament, grant for himself and his heirs to all and singular foreign clothworkers . . . who then resided in his kingdom . . . and should thereafter come and abide there and follow their craft . . . that they might safely abide in the realm under the king's protection, and might freely follow their craft; without being compellable to be members of the gild of weavers of London, natives, or of other clothworkers of this realm, or to pay any sums of money by reason of such gild."<sup>35</sup>

The grant of such a privilege would not make it easier for the local authorities to keep the peace; and the government was again and again obliged to issue orders that no one should molest the Flemings,<sup>36</sup> and—since attack provoked reprisal—that neither Flemings, Brabançons, nor Zeelanders should go about with arms.<sup>37</sup>

How the immigration of foreign weavers affected the

organization of industry in London, it seems impossible accurately to determine. There are, however, three assertions which may with some confidence be made: first, that though exempted by Edward III. from the necessity of becoming members of the London weavers' gild, the foreign weavers did not remain without some sort of association among themselves; secondly, that the old weavers' gild was greatly weakened by the change in its position; but, thirdly, that it did finally succeed in regaining the control of all those exercising the craft within London.

The first is proved by a petition presented to the mayor and aldermen in the year 1362 by the "weavers alien."<sup>88</sup> They ask that "three good folk of the weavers alien may be ordained and sworn to keep and rule their trade;" that every alien who wishes to work in the city should be obliged to present himself before these officers and prove his capacity, and that his wages should be fixed by them; and that the same officers should decide in quarrels between masters and men about wages, as well as in cases of petty larceny. Then come the ordinary gild regulations, restricting night work and work on holy days. The proposed rules were sanctioned: whereupon two Flemings and a Brabanter were chosen and sworn "to keep and oversee the articles aforesaid and the alien men of the same trade."

This trade organization obviously included both Flemings and Brabançons. But Flemings must certainly have largely preponderated; and therefore we may with little hesitation identify it with "the trade of the weavers among the Flemings" spoken of in the "Articles of the Flemish weavers in London" four years later.<sup>89</sup> They ask that previous ordinances may remain in force; that weavers who cause affrays shall be properly punished; and that the bailiffs of the society shall not be allowed to summon meet-



ings or demand contributions without the assent of twenty-four men of the trade to be chosen by the city authorities. Yet even though men of Flanders and of Brabant were united in the same body, there was a good deal of jealousy between them; hence it was that in 1370 "the commonalty of the weavers among the Flemings" petitioned for the renewal of a previous ordinance of the magistrates which, for the prevention of affrays between the two races, had ordered that "the weavers Flemings" should meet for the hiring of serving-men in the churchyard of St. Lawrence Pountenay, and "the weavers of Brabant" in the churchyard of Our Lady Somersete. But they did not wish that there should be two rival organizations, for they asked also "that the serving-men in that trade should serve indifferently under the weavers of either nation."<sup>40</sup>

There are abundant proofs of the lessening importance of the London "weavercraft" in the latter part of the fourteenth century. Thus we find that as early as 1377 they had sunk into the ninth place among the misteries; and that while nine companies sent six members apiece to the common council, the weavers sent only four.<sup>41</sup> This change in their position was largely due, as will be seen later, to the rise of the companies of *traders*. But it must have been hastened by the struggle with the foreign weavers, and the refusal of the latter to contribute to the gild. In the eighth year of Edward IV. the weavers' gild was four hundred marks in arrears with its ferm; it continued to sink deeper and deeper into debt till the sixteenth year, when the arrears were wiped out by royal grace. In the twenty-fourth year of Henry VII. it again owed for nine years. And "the gild of weavers with broad looms,"—which is almost certainly the same as the old gild of weavers,—was once more in the thirty-eighth year of

Henry VIII. pardoned its arrears of ferm "in consideration of the poverty of the said artificers."<sup>42</sup>

Yet it is clear that, somehow or other, the weavers' gild, or "company,"—as it came later to be called,—did succeed in the end in incorporating the foreign weavers and their descendants. The English weavers had petitioned in 1406 and 1414 that aliens should be forced to contribute to the ferm. The answer had been that the Royal Council "had power by authority of parliament to do justice between the parties according to its discretion."<sup>43</sup> As we find under Edward IV. that foreigners were now compelled by the royal courts to contribute to the ferm, even though they were not members of the gild,<sup>44</sup> we may suppose that the privy council had in the interval acceded to the request of the native craftsmen. And when the foreigners found they had to pay towards the ferm, it probably occurred to them that they might as well join the gild. Certainly in the reign of Queen Anne the weavers' company had the power of compelling all weavers within London to become members,—a power which they exercised until the present century.<sup>45</sup>

The foreign weavers doubtless met with much the same reception elsewhere in England, outside London; although, as their numbers in the other towns would be much smaller, it would be easier to incorporate them in the existing organization. Unfortunately we have scarcely any evidence except a brief notice concerning Bristol which is found in a royal writ of 1339 addressed to the mayor and bailiffs.<sup>46</sup> The writ begins with reciting that it had recently been ordained and agreed in parliament "that the wools should be worked up into cloth within the kingdom,"—a significant statement of the conscious policy which underlay the Act of 1337. It had been ordained likewise

that all who wished to make cloth should be allowed to do so wherever they pleased. Relying upon this, "Thomas Blanket and other citizens of the town had caused instruments,"—doubtless looms,—“for the making of cloth to be set up in their houses, and had caused weavers and other craftsmen to be hired.” It is not mentioned that these craftsmen were foreigners, but it is highly probable. The writ goes on to recite how that in spite of the act of parliament the mayor and bailiffs had heavily fined Thomas and the others on account of these looms, and had otherwise molested them, and it ends with ordering that this molestation should cease; and that Thomas and the other enterprising citizens, and also their workmen, should be properly protected.

This writ is more suggestive than explicit. It is clear, however, from other information, that Thomas Blanket was no simple craftsman: he belonged to an important Bristol family, which, in his own person and in the persons of his brothers, was frequently represented, about this time, among the town magistrates and among the burgesses in parliament.<sup>47</sup> Moreover the phrase, “caused workmen to be hired,” may point to an early capitalist attempt to carry on the manufacture in something like a large workshop or small factory; and it may have been this departure from the ordinary practice of the time, more than non-membership of the gild (or in addition to that non-membership), which seemed to the magistrates to call for punishment.<sup>47a</sup>

In Norwich the course of events was apparently similar to that in London, for there also the alien weavers remained for some time outside the existing gild. Under Henry IV. the native weavers petitioned parliament for the incorporation,—probably the compulsory incorporation,—of the aliens in

their gild, and it is probable that they were ultimately successful.<sup>47b</sup>

How powerful may have been the impulse thus given to English manufacture we are unable with certainty to estimate. An account first printed by Misselden in 1623 (with no other explanation of its origin than that it was an exchequer record in an ancient manuscript of a merchant), professes to give the amount of exports and imports in 1354.<sup>48</sup> According to this, more than 30,000 sacks of wool were exported in that year, but also 4774½ pieces of cloth valued at 40s. each, and 8061½ pieces of worsted stuff valued at 16s. 8d. each, while among the imports were 1831 pieces of fine cloth, each valued at £6. The account may be wholly fictitious, or may be assigned to the wrong year; but if it could be accepted as genuine, it would show that twenty years after the introduction of foreign craftsmen began, England already exported a not inconsiderable quantity of cloth, though much of it was probably in an unfinished state and was worked up abroad. The difference between the value, per piece, of cloth imported and of that exported is very striking.

It is, however, unmistakable testimony to the new and growing importance of the exports of woollen cloth, that it was felt to be worth while to impose new customs upon them.<sup>49</sup> This was in 1347, or somewhat earlier. The Commons petitioned in 1347 that this custom "newly made" might be removed, on the ground that it prevented foreign merchants from buying. The answer is significant, as showing that the government already anticipated the time when the exportation of the manufactured commodity would take the place of that of the raw material: "It is the pleasure of our lord the king, the prelates, earls, and other magnates that this custom should remain in force, for it is reasonable that

the king should take like profit from cloths wrought within the realm and carried forth, as of wools carried forth from the land.”<sup>50</sup>

§ 43. Before, however, the introduction of foreign weavers had begun, a new manufacture—that of *worsted*—had been growing up in Norfolk, and had already reached a considerable magnitude. As early as 1315 the evils had begun to show themselves which were characteristic of a young and unregulated industry. In that year the foreign traders, together with a number of native merchants, complained of the way in which they were deceived at Norwich and in the county of Norfolk generally, with regard to “the cloths which people call Worthstedes and Aylehames.”<sup>51</sup> Those which were sold as measuring 24 ells were really only 20 ells in length, and those which should have measured 30 contained no more than 25. The reason assigned was the absence of any “assize,” or system of control; and accordingly they prayed that the king would institute an assize, so that defective wares might be forfeited “like all other things which go by assay.” The reply was that proclamation should be made in Norfolk, Suffolk, London, and wherever else might seem expedient, that no cloth should be sold for more than its real measure, and that every cloth should be of equal value throughout. Soon after, however, it was determined to adopt the suggestion and appoint a special aulnager of worsteds in the county of Norfolk; and this office was conferred on a certain John Peacock.<sup>52</sup> In 1327 the office was transferred to Robert de Poleye, one of the king’s yeomen.<sup>53</sup> But the control of this new officer was not welcome to the weavers. They complained that whereas they used to make their cloths of a length of some eight or ten ells, Robert de Poleye compelled them to make them of 50, 40, 30, or 24 ells at the least, and exacted a penny or

more as payment for affixing his seal. In 1328 the Bishop of Norwich and three other commissioners were appointed to examine into the charges: as Robert de Poleye continued to exercise his office, we may conclude that the commissioners reported in his favour.<sup>54</sup> The craftsmen refused to submit; and early in the next year we find some seventeen persons accused by Robert before the justices of conspiring to prevent the execution of his office.<sup>55</sup> Of these seventeen seven are spoken of as "of Worsted." The list of places at which this conspiracy took place may be taken as roughly indicating the area occupied by the industry in 1329. They were Norwich, Bishop's Lynn, Worstede, Walsham, Catton, Scothowe, Tonstede, Honynges, "and other places." The opposition was so strong,—the craftsmen, so it is said, absolutely refusing to go on with their work,—that in the summer of the same year, 1329, the king altogether revoked the concession made to Robert de Poleye, and agreed that in future the makers of worsted cloths should manufacture and sell them without being obliged to satisfy any assay.<sup>56</sup> But this concession, though made, was apparently not enrolled;<sup>57</sup> and in 1348 the weavers of worsted cloths again approached parliament; this time, we are told, with the approval of certain merchants. It may have been that Robert de Poleye still claimed to exercise his office during his lifetime, according to the original grant; or it may have been feared that a new patent was about to be granted: and the petitioners now remonstrated that a decision, that of 1329, which had been arrived at by good deliberation and sage advisement of the king and his council, ought not lightly to be set aside in favour of any one. The council thought fit to grant the petition "for the common profit alike of the great as of the small."<sup>58</sup>

For the rest of the century, apparently, the worsted

industry was subject to no special supervision. We may conjecture that there was some sort of local organization of the craft both in Norwich and in the other towns where the industry was established, and that the municipal authorities exercised a general control over the trade.<sup>59</sup> "In 1388 there was an Ordinance made," by the citizens, "that no Citizen should buy any Worsteds of any Country Weavers, in the City Liberties, without they set their Chests in the Messuage . . . now called the Worsted-Celde (Shop or Stall), under Penalty of 40s. for the first Offence, 4*l.* for the second, and losing their Liberty," *i.e.* franchise, "for the third; and Will. de Eaton and Will. Lomynour were chosen Wardens to take care of this Business."<sup>60</sup> It is clear that Norwich was becoming an emporium to which was brought for sale the worsted cloth manufactured in all the villages around; and this ordinance was doubtless intended not only to secure a proper supervision, but also to safeguard the interests of the Norwich artisans, by providing that there should be no direct contact between Norwich purchasers and country weavers except in one specified market. The policy of the measure was precisely similar to that which led to the establishment of Blackwell Hall in London, to be referred to later.

When, however, early in the fifteenth century, Norwich obtained a new charter, giving it for the first time a mayor and sheriffs, one of the first cares of the new authorities was to press for more complete powers. In 1410 the Commons in Parliament represented to the king "on behalf of the mayor, sheriffs, and commonalty of the city of Norwich," that "worstedes had been recently made by the workers thereof with deceit, both in their quality and in their measure, to the great scandal and hurt of the loyal merchants of the city and surrounding country; to the hurt also of the



lords, gentry, and all other folk of the realm who are wont to buy worsteds for their needs; and to the certain destruction of the merchants who pass with these worsteds into Flanders, Zeeland, and other places over the sea. For if the foreign merchants decided to search and measure all the worsted coming from this side, and to seize all they found defective, ordering besides severe penalties for the sellers of such worsteds, it would be a great scandal and reproof to this kingdom,—and the total destruction alike of the merchants and of the city of Norwich, since their trade is in nothing but worsteds. That it would please our Lord the King to consider, how, that the workers in worsted have repaired, and continually do repair, to that city, and commonly to a place called the Worsted-Selde within the city.” They begged, therefore, that in future the power of search and aulnage should be entrusted to the mayor, sheriffs, and commonalty, or their deputies. Their prayer was granted: henceforth no cloth was to be sold until it had been sealed as being of due quality and size, and a moderate scale of fees was established, whereof the proceeds were to go towards the repair of the city walls.<sup>61</sup> The grant was originally made only for seven years, but afterwards renewed. The mayor and bailiffs did not, however, undertake themselves the office of “Aulnage and Seal,” but let it to a couple of citizens, who paid a yearly rent to the corporation,<sup>62</sup>—a condition of things which remained undisturbed for some thirty years. The petition of 1410 shows that the manufacture now furnished the staple trade of Norwich, the second city of the kingdom.<sup>63</sup> The industry had long ago passed out of the stage at which it produced only one or two staple varieties; for the petition enumerates as many as twenty-one different sorts and sizes of worsted cloth as requiring supervision.<sup>64</sup>

§ 44. The increase of the manufacture of cloth and worsted during the second half of the fourteenth century had among its results the creation of a numerous and wealthy body of English merchants trading with the finished article.

The position at this time of the English cloth industry, compared with that of other countries, was as follows: Like the industry of the Rhine and of northern France, it was rapidly gaining upon that of the Netherlands; it had not yet surpassed in importance the manufactures alike of the Netherlands, of France, and of the Rhine, as it was destined to do in succeeding centuries. The internal development was, as we might expect, exactly parallel with that of other countries; and of this development the most striking feature was the appearance of a distinct class of English dealers,—of traders in cloth as distinguished from makers of cloth. This is a fact of the utmost importance. Nowhere but in the Netherlands had there been room hitherto for the growth of such a body. There the sale of cloth had long been as important to merchants as the purchase of wool; and both were monopolized by the little burgher oligarchies who were united together in the Hanse of London. The spirit of the guilds merchant in England was the same as that of the similar societies abroad; whatever trade there was they doubtless tried to get into their own hands. It has been shown in an earlier section that as early as the reign of Henry II. there had been some little trade in dyed cloths, and that the ruling classes in the towns had attempted to secure a monopoly of it. During the two centuries, however, which followed, the craftsmen had succeeded in gaining the rights of citizenship, and the exclusive privileges of a small governing class had passed away. Any citizen could now trade in cloth if he wished. Still it was not until the period

at which we have now arrived that a numerous class of cloth dealers, or *drapers*, made its appearance.<sup>65</sup> There had been so little manufacture for any save the immediate market,—the wants of the town and neighbourhood,—that if men dealt in cloth at all, they dealt in it together with half a dozen other commodities; they were merchants, and not dealers in one particular article.

We are so accustomed nowadays to the appearance of a new branch of commerce, entered upon by men with the command of capital which they are ready to make use of in any profitable way that presents itself, that the rise of the cloth trade may not seem to need explanation. But in the fourteenth century there was but little of what may be termed “free” or “disengaged” capital, ready to be turned in any profitable direction. Hence the question arises, In what way precisely did this new division of occupations arise? It is antecedently probable that the trade in cloth would be engaged in chiefly by men who were already in some way connected with the industry. Of these there were two groups, from either of which the new body might conceivably have arisen,—the wool-dealers and the cloth-finishers. It does not appear that before this time there was any very uniform system of relations among the various branches of the cloth industry. We may perhaps gather that the weaver had usually occupied the most independent position; that he had very generally bought the yarn himself, and then, after weaving the cloth, had paid the fuller to full and the dyer to dye it, and had himself sold the cloth to the person who intended to use it. The user might employ it in its rough state, or, as was often the case, might take it to the cloth-finisher, the *pareur*,<sup>66</sup>—or, as he is called later, the *tonsor* or *shearer*,—who sheared off the nap at so much the piece.<sup>67</sup> But the weaver did not always occupy this economically superior position; sometimes

he received yarn from a customer or employer, and gave back cloth, receiving so much per piece as remuneration; sometimes again the fuller bought the cloth from the weaver, or paid the weaver for working up yarn into cloth, and himself sold it to the public. Any of these branches, therefore, might have become the dominant one. But the two mentioned, the wool-dealers and cloth-finishers, had obvious advantages. On the one hand, the wool-dealer, whether he merely bought the raw wool and sold it to those who would make it into yarn, or whether he himself paid for its being combed and spun, and then sold it to the weaver, was already a merchant with some command of capital and accustomed to commercial dealings. English dealers in wool and other staple commodities were at this time becoming an important and influential body, and were beginning to contest with the Teutonic Hanse its monopoly of export from England.<sup>68</sup> It is therefore likely enough that such merchants would trade in what was practically a new commodity,—the cloth which was now being supplied of better quality and in larger quantity than ever before. But whatever may have been the case in other countries, there is certainly no evidence that in England the dealers in cloth came, to any large extent, from among the dealers in wool.

The other theory, that it was the cloth-finishers who first ventured upon trade, has also antecedent probability in its favour. For it was through their hands that the cloth last passed; instead of waiting for a customer to bring a piece of cloth to be shorn or finished, they might see the advantages to be got by buying the cloth from the weaver and finishing it ready for the customer.<sup>69</sup> As the demand increased, they would need larger stocks, and some of them would probably soon give themselves up entirely to the trade. It seems very likely that this is what took place in Paris and in France

generally. There, apparently, it was the fullers who caused the cloth to be put through its final processes,—either shearing it themselves or employing men who sheared it for them; and it was the fullers who sold it to the general public. The term “draper” was at first used quite generally for any one making or dealing in cloth,<sup>70</sup> but clearly in the thirteenth century it became a synonym for fuller.<sup>71</sup> Seen first as rivals of the weavers in the sale of cloth,<sup>72</sup> the fullers seem quickly to have got it into their own hands; until finally, in the middle of the fourteenth century, royal letters patent divided the “drapers” into two classes, manufacturers and traders.<sup>73</sup>

What information we have for England points in the same direction. Isolated “drapers” appear in the thirteenth century;<sup>74</sup> but there is no certain evidence of a numerous *body* of dealers in cloth, even in London, before 1364, the date of the first charter granted to the Drapers’ company. The same charter furnishes evidence that the drapers were still *makers* of cloth, *i.e.* completed the final processes, including shearing; for the preamble complains that “dyers, weavers, and fullers, who used to follow their own crafts, have become *makers* of cloth.”<sup>75</sup> Moreover, towards the later part of the next century we find the fullers and shearmen in a position of dependence upon the drapers, and paying a fee at Drapers’ Hall for each apprentice;<sup>76</sup> a situation which is easily explained on the supposition that the drapers had arisen from among them. The fullers were incorporated in 1480, and the shearmen had a fellowship and wardens, with certain rights of supervision; but the great companies of drapers and tailors were promised that the shearmen should not be incorporated, and they were not incorporated till 1508.<sup>77</sup>

This mention of the close connection between the drapers and tailors in London suggests a piece of circumstantial

evidence which is at any rate curious. In several towns, as in York and Oxford, the drapers and tailors were united in the same company; but in Coventry the place of the drapers was taken by the shearmen, and the mystery play was presented by "the company of sheremen and tailors."<sup>78</sup>

However we may explain their origin, the drapers certainly formed powerful companies in London and other great towns towards the end of the reign of Edward III., and in that of Richard II. The London company of drapers was not long in obtaining important rights of supervision over the industry of the capital and, indeed, of the whole country. Their earliest charter had given them a monopoly of the retail sale of cloth in London and its suburbs: any one not belonging to the mystery who had cloth to sell could, indeed, sell it in gross to lords and commoners who wanted it for their own use, but he might never sell it retail, or even wholesale, except to members of the drapers' company.<sup>79</sup> By the purchase of a hall in 1384, the company obtained an administrative centre:<sup>80</sup> the fact that this hall was in St. Swithin's Lane<sup>80a</sup> shows how close their connection still was with the weavers of Cannon Street. Indeed, during the next century the old home of the working weavers came to be occupied by dealers: in *London Lickpenny*, the best-known ballad of Lydgate, a countryman describes how

"Then went I forth by London stone;<sup>80b</sup>  
Throughout all Canwyke street;  
Drapers much cloth me offered anone."<sup>81</sup>

An important characteristic of mediæval life was the great annual fair, held usually outside the walls of towns, on the lands of great lords, or ecclesiastical bodies, who derived no small part of their income from the fee paid by

each dealer who set up a booth. There were three of these in the suburbs of London; at Westminster, belonging to the Abbot; at Smithfield, to the Prior of St. Bartholomew; and Our Lady's fair at Southwark, belonging to the Prior of St. Mary Overy. Of these, the first was the most important and lasted thirty days, while those of Smithfield and Southwark lasted but three. Cloth now became the chief article sold at these gatherings; the fair of St. Bartholomew was especially known as the Cloth Fair. Early in the fifteenth century the drapers and merchant taylors' companies obtained the right to search all the cloth exposed for sale and to mark it according to its size.<sup>63</sup> The annual search at Westminster seems to have soon ceased: but down to 1737, long after the conditions of industry had altogether changed, the wardens attended year after year at Smithfield and Southwark with "the Company's standard."<sup>63</sup>

The earliest accounts in the possession of the company, those of 1415, show that it was already a powerful body, numbering as it did more than 100 members,<sup>64</sup>—by which must be understood master drapers only, and not journey-men or apprentices. By this time, however, a considerable number of drapers had arisen in other towns; and, both for the sale of their cloth to the people of London, as well as for its easier export to foreign countries, these began to resort to the capital. They could not fail to come into collision with the monopoly of the London drapers, and it was necessary for the government and the municipal authorities to devise some way out of the difficulty. The plan they hit upon was the establishment of Blackwell, or, as it was originally called, Bakewell Hall, which was destined to be of the utmost importance to the English woollen industry for four centuries. This was an old hall with a considerable piece of ground around it, in Basinghall Street: it had originally belonged to



the Basings, had been occupied by a certain Thomas Bakewell in the reign of Edward III., and was now, in 1397, purchased by the mayor and commonalty of London and turned into a market for country drapers.<sup>85</sup> With the sanction of the government, the mayor, aldermen, and commonalty issued in 1398 regulations to the following effect: Country drapers were to house, show, and sell their cloth only at Blackwell Hall; the sale was to be carried on weekly between noon on Thursday and noon on Saturday: and merchants,—among whom aliens, *i.e.* foreigners, are specially mentioned,—were not to buy from them except at the hall and within the times appointed: the penalty for the breach of these rules being the forfeiture of the cloth in all cases.<sup>86</sup> In order that the regulations should be obeyed, the common council in 1405 empowered the drapers' company to appoint a keeper of the hall every year.<sup>87</sup> Although it is not stated in the ordinances, it is made clear by a statute of Henry IV. that the object of these regulations was to prevent the country drapers from dealing directly with the customers of the London drapers, and selling their cloth to them in retail. All the trading in Blackwell Hall, apparently, was wholesale. But the London drapers had met with so much support from the government hitherto, that they thought they might venture to go farther, and force the country drapers to sell only to themselves. To permit this was to give the London drapers a monopoly of the cloth trade of the kingdom, and to enable them to demand what price they pleased; and, therefore, parliament interfered, and declared by an act of 1405-6, that "drapers and sellers of cloth, like all other merchants," should be free to sell their cloth in gross to all the king's liege people.<sup>88</sup>

The growth within England of a great cloth manufacture brought with it of necessity a complete change in the

character of English trade, and in the commercial relations of the country. Up to this time she had exported wool and imported cloth; now she began to export cloth, and to limit, and finally under Elizabeth to prohibit altogether, the export of wool. The history of the export of cloth is closely associated with that of the Society of Merchant Adventurers, the parent of all the later trading companies which won for England her commercial supremacy. It is not necessary here to enter in detail into their story, especially since it has been carefully worked out by Schanz.<sup>89</sup> It need only be understood that they derived their name from their adventuring on trade in new directions with new commodities, and that they were never quite so rigidly tied down to one particular centre as the Merchants of the Staple. It was not only in the cloth industry that the second half of the fourteenth century had seen the appearance of a class of large traders: the *mercers*, originally pedlers of small wares, had become merchants trading principally in silk; the *pepperers* had become *grocers*, i.e. engrossers or wholesale dealers in spices. The sermon-writer Armstrong, who looks back in 1519 to the time "before the getting of the narrow sea and Calais" as to a golden age, tells us that then "there were no such sort of buyers and sellers of all things as now is . . .; then were not mercers, grocers, drapers, nor such occupations named."<sup>90</sup> These three trades had, as early as the end of the reign of Edward III., risen to be the first among the London companies; in other towns they occupied a similar position; and it was from members of these three trades that the body of Merchant Adventurers arose towards the end of the century. At first the Merchant Adventurers were mostly mercers, and their connection with the London mercers' company was closer than with any other body. But soon, if not from the first,

cloth became the chief article in which they traded. This was so much the case that when in 1601 the secretary of the society wrote its history, he described it as actually originating in the intention of Englishmen to export the fine cloth beginning to be made in their country. His description of the company is worth quoting: "It consisteth of a great number of wealthy and well experimented merchants, dwelling in diverse great cities, maritime towns and other parts of the realm, to wit: London, York, Norwich, Exeter, Ipswich, Newcastle, Hull, etc. These men, of old time, linked and bound themselves together in company for the exercise of merchandise and seafare, trading in cloth, kersie and all other, as well English as foreign commodities vendible abroad."<sup>91</sup>

In the next thirty years they created a considerable trade with France, Spain, and Italy. But the chief interest of their history turns on the struggle between the English and the Flemish cloth industry. The "staple town" of the Merchants of the Staple had been Bruges, so that it was natural that the Merchant Adventurers should at first make it their centre also. But Bruges was one of the three great cloth-making towns of Flanders,—Ghent, Bruges, Ypres,—and every sort of difficulty was thrown in the way of the English traders. The Merchant Adventurers in consequence gradually removed to Antwerp in Brabant,<sup>92</sup> where there was no considerable cloth manufacture. They were favoured by political events; the murder of John, Duke of Burgundy, in 1419, led to a close alliance of the Burgundian house with England, which lasted until 1434. But by that time the great success of the Merchant Adventurers had disabused the Flemings of the idea that English competition would not injure them if only English merchants could be forced into an adjoining province. The Burgundian

princes were in the mood to listen to the complaints of their subjects, especially as they were already beginning the attempt to unite their Netherland provinces more closely together, and could not be blind to the disastrous consequences of the destruction of Flemish industry. Accordingly in 1434 the importation of English cloth into the Netherlands was prohibited entirely.<sup>93</sup> The English government replied by prohibiting the export of English wool. Although during the last century new sources of wool supply had arisen,—notably, in Spain,—such a measure seriously embarrassed the Flemish manufacturer.<sup>94</sup> It was at the same time, however, opposed to the interest of the landed class in England—the growers of wool, as well as to that of the Merchants of the Staple—the exporters of wool. Hence it was difficult for either the English or the Burgundian government to follow a consistent policy: and the varying necessities of York and Lancaster, or of the Burgundian rulers in their hostility to France, led to temporary relaxations on either side. But in 1496 England was at last victorious; and by the *Intercursus Magnus* Henry VII. secured the free entry of English cloth into the Netherlands. The result, hastened by the religious troubles of the Netherlands, and by the renewed emigration of weavers during the administration of Alva, was the destruction of the Flemish industry, and the rise of the English cloth trade to its unique importance in the sixteenth and seventeenth centuries.

§ 45. For the history of the industry during the first sixty or seventy years of the fifteenth century, we have singularly little evidence. Yet during that period a complete change was taking place in the character and conditions of manufacture. The gild system was dying and the domestic system was taking its place; a change which can only be compared in its far-reaching consequences to the overthrow,

during the present century, of the domestic system itself by the strength of machinery and great capital.

So entirely does a prevailing method of industrial organization take possession of men's minds, that the very term "domestic system," which was familiar enough in the early part of this century, has become strange, and may require explanation. But, in order clearly to indicate the nature of the domestic system and of the transition to a new order of things, it will be necessary to leave for a time the direct narration of industrial facts, and to enter upon more general considerations.

Economic historians have traced four stages in the development of industry; which it is now very generally the custom to describe as the *family system*, the *gild system*, the *domestic system*, and the *factory system*.<sup>95</sup>

In the first, the work was carried on by the members of a household for the use of that household. Whether the household were that of the villain, or that of the great noble or ecclesiastic, did not alter the essential character of the situation, which was, that men did not work to meet an outside demand; there was no sale.

In the second stage, industry was carried on by small masters, employing two or three men (distinguished later as journeymen and apprentices). The masters very often bought the materials and sold the finished goods, *i.e.* they were shopkeepers as well as artisans. But even where the craftsman received the materials from a customer, and was paid so much per piece for his work,—as was probably the case, as a rule, with fullers and shearmen,—even then he had to deal either with craftsmen in much the same position as himself, or with persons who intended themselves to use the commodity on which his labour was spent. There was a market, *i.e.* there was a demand from

persons outside the family, but it was small and comparatively stable.

In the third stage, which, in England, occupies the period from the middle of the fifteenth to the middle of the eighteenth century, many of the terms remained the same. There were still small master-artisans, with journeymen and apprentices; the work was still carried on in the master's or the journeyman's own house, and the craftsmen were personally free as to their daily actions. But the master had lost his economic independence, and no longer acted as a shopkeeper or merchant. He often received the raw material from, and always gave up the finished goods to, a merchant, factor or middle-man of some sort, who took the risk of the fluctuating demands of that greater market which had now come into existence.

In the fourth, the workmen are gathered together in great masses, usually in large buildings, under the immediate control of capitalist employers. Technical skill is now far less important than capital; the workman has completely lost his industrial independence, and the market is increasingly wider and more fluctuating.

These stages must not be regarded as rigidly distinct: any number of intermediate arrangements were possible, and are to be found. Nor are the terms which are used to distinguish the four stages anything more than convenient expressions. For instance, so large a proportion of manufacture was organized in the guild system, that that term may be fairly used to describe the industry from the middle of the twelfth to the middle of the fifteenth century. But, in some occupations, while there was a sufficient demand to induce men to give up their time entirely to a particular sort of labour, there could never be a demand sufficient to call into existence a body of such craftsmen in a particular

district, large enough to form a gild.<sup>96</sup> Thus, most villages had blacksmiths, but only in the larger towns could there be a blacksmiths' gild. Probably in the woollen industry, isolated weavers and other craftsmen maintained themselves throughout this period in out-of-the-way places, without belonging to any organization; and this, in spite of the efforts which the town gilds made in England, as in other countries, to prevent the exercise of their craft in the country districts.<sup>97</sup> In these cases, the individual craftsman would be without the support and control of the gild, but the essential characteristics of his position were the same as that of the gild members. His capital was very small; he dealt directly with the customer; there was no social gulf between himself and the two or three men or boys he employed.<sup>98</sup>

Nor, again, is it intended to imply by speaking of these four stages that every industry in every place must needs go through each one of them. It is obvious that new manufactures are usually established under the conditions already reached by older industries. It is almost equally evident that a manufacture may in some particular place leap over a stage, when either that same manufacture elsewhere or other manufactures have made sufficient progress to give an example. But none of these difficulties present themselves in the case of the English cloth manufacture, which, far from lagging behind, led the way in industrial development.

It must be noticed also, that even when a particular organization of industry is dominant, there often exist side by side with it arrangements belonging to an earlier type. Thus to-day, the overwhelmingly larger part of the staple products of England are made in factories, mills, or "works." Yet here and there are still found men "working



for themselves" and dealing directly with the customer, just as in the fourteenth century. It is still more frequently the case that men work in their own homes, but "for some shop;" and here the conditions are in the main those of the seventeenth century. But these are survivals, and with the further utilization of machinery, and the increasing cheapness of carriage which favours the larger centres, will tend to disappear.<sup>99</sup>

We may conjecture that a twofold process went on in the fifteenth century in the production of woollen goods—(1) that in the towns, the gilds or companies became small close corporations and lost control over the industry; (2) that the industry spread from the towns into the country, and that there a new class of men called *clothiers* or *clothmakers* arose, commanding an amount of capital great relatively to previous conditions, and bringing into dependence upon themselves comparatively large numbers of workpeople.<sup>100</sup>

It is when we turn to the industrial conditions which took the place of the gild system, and to the agricultural changes with which the transition was accompanied, that we begin to understand how great a part the woollen manufacture has played in English social history. For the extraordinary and rapid success of that industry brought about not only the downfall of the gild organization within its range, but also a far-reaching change in English agriculture. Now that there was a constant and increasing demand for wool, it became the interest of the landowners to raise sheep rather than to grow corn, especially as the great increase in the cost of labour since the Black Death had already made tillage unremunerative. The writers of the sixteenth century, and modern historians following them, have dwelt on the far-reaching consequences of the introduction of pasture farming,—the superfluity of labourers, the amalga-

mation of farms, the increase of rents, and the dispossession of customary tenants.<sup>101</sup> What we are here specially concerned with is the fact that the growth of the new manufacture helped to alleviate the evils it had itself caused, by giving employment to those whom the agricultural changes had deprived of work. Indeed, the wealthy graziers were themselves very commonly clothiers also, in the sixteenth century; the wool grown upon their own land they employed men and women of the neighbourhood to make into cloth, and then sold it to the London drapers or dealers.<sup>102</sup> It must not be forgotten, moreover, that where peasant proprietorship and small farming did maintain their ground, this was largely due to the domestic industry which supplemented the profits of agriculture.<sup>103</sup>

Of the early history of the new domestic industry we have but scant information; when it is first noticed in public documents it is already widely spread over the country. During the later part of the fourteenth and throughout the following century there was a rapid extension of the manufacture; resulting in the growth of a number of important local varieties, such as the "cloth of ray and coloured cloth," made in "Bristol and in the counties thereabouts,"<sup>104</sup> the "cogware and Kendal cloth,"<sup>105</sup> the "cloths of Guildford," made in the counties of Surrey, Sussex, and Southampton,<sup>106</sup> and the "frieze of Coventry."<sup>107</sup> These are all found before the end of the fifteenth century, and before the end of the next hundred years the number of local varieties becomes quite bewildering.

It was probably this cause, as much as any other, which led to the wavering policy of the government in the matter of aulnage. As early as 1353 the rules as to size had been repealed, and the aulnager had been instructed simply to measure each piece and mark upon it how much it contained.<sup>108</sup>

This, however, was but to meet the desires at the time of foreign merchants importing cloth into England, and was not permanent. In 1373 the assize was restored for cloths *made in England*; but now it was thought well to exempt from its operation the inferior cloth which was manufactured for sale to the poorer classes.<sup>109</sup> In 1379–80, and again in 1383, the statutes as to assize were confirmed, without any express mention of this exemption;<sup>110</sup> so that it was felt to be necessary in 1389–90 to enact that “certain cloths made in divers counties of England, called Cogware and Kendal cloth,” which were “sold to cogmen<sup>111</sup> out of the realm and also to poor and mean people within the realm,” could continue to be made of their accustomed length and breadth.<sup>112</sup>

In 1393–94 the older rule was reverted to, so that “every man in the realm might make and sell cloths, as well kersies as others, of such length and breadth as pleased him;” although they had still to be sealed.<sup>113</sup> Even from this latter requirement cloths of inferior make were exempted in 1399 for a period of three years.<sup>114</sup>

Again in 1405–6 prescribed measures were restored;<sup>115</sup> again in 1407 freedom was restored to the makers of “ray,”<sup>116</sup> that is, of most uncoloured cloth.<sup>117</sup> But at last, by a statute of 1409–10,<sup>118</sup> confirmed in 1411,<sup>119</sup> the older policy of definite statutory measures was returned to; and this was maintained henceforward. It was, indeed, necessary in 1433 to make a new rule providing for the size of cloths called “streits,” which were apparently a new introduction;<sup>120</sup> and later in the century the statutes begin to provide for half a dozen staple kinds.<sup>121</sup> How extremely difficult it became to ensure uniformity is shown by the fact that in 1483–84 the government again resorted to the plan of exceptions; or rather, in regard to a number of varieties,—most of which, to judge from their names, were quite recent introductions,—

the government gave up the attempt to impose a standard, and enacted only that they should be "duly and perfectly made according to the nature and making of every of the said clothes."<sup>121a</sup>

Finally, after a number of experiments which need not be detailed, the matter was settled, at any rate for the time, by resort to what we should now call a parliamentary committee.<sup>122</sup> The king, "by the advice of the Lords and Commons, caused as well divers honest Clothiers, as also divers Drapers, Merchant-tailors, Clothworkers, Sheremen, and other artificers to whom it appertaineth to be examined by certain wise, discrete, and sage Knights and Burgesses in this present parliament;" and upon the report of this committee a statute was drawn up prescribing the length and breadth of no less than twenty-three different kinds from the several localities. The committee had the wisdom to avoid the defect in many of the earlier statutes of making the prescription too rigid, and allowed considerable latitude in the sizes. They probably did no more than give the force of law to local customs, observed already by the great majority of honest craftsmen and dealers.

An indication of the new importance of the woollen manufacture is given by the statistics of export and customs. We have seen that the export of woollen cloths in 1354 was reckoned as under 5000 pieces; at the accession of Henry VIII. it was about 80,000, and it rose from that number during his reign to more than 120,000 pieces.<sup>123</sup> These figures are for undyed cloths alone; which, however, even during the reign of Henry VIII. were more than 95 per cent. of the whole.<sup>124</sup> The Hanse merchants paid toll, in 1397, on six cloths only; there was then practically no exportation. In 1422 they paid toll on 4464 pieces. During the next forty years the number increased only to 6159; but by 1500 it

had leapt up to 21,389.<sup>125</sup> Cloth was gradually taking the place of wool as the most important source of customs revenue. In 1421 the wool custom and wool subsidy furnished 74 per cent. of the total customs revenue ; under Henry VIII. it had fallen to 33 per cent., while the customs on general merchandise had risen to 36 per cent., and those on cloth alone to 24 per cent.<sup>126</sup>

The growth of the woollen manufacture during the second half of the century was stimulated by a consistent "protective" policy, vigorously carried out. This began with the accession of Edward IV., who throughout his reign relied upon the industrial and mercantile classes. In 1463 the importation of woollen cloth was prohibited, together with a number of other manufactured articles ;<sup>127</sup> and the prohibition, which in that act had only been temporary, was specially renewed and made permanent in an act of the following year.<sup>128</sup> Moreover, the scale of export duties was arranged, if not then, soon afterwards, in such a way as to encourage the export of cloth rather than that of wool : under Henry VII. and Henry VIII., while the duty on wool was for staple merchants about 33 per cent. of its value, and for non-staplers 70 ; that on cloth for natives and Hanseatic merchants was not quite 2 per cent., and for other aliens not quite 8 per cent.<sup>129</sup> \*

It was the new mercantile capital created by successful foreign trade, and largely in the export of cloth itself, which turned back, as it were, upon industry, and by seeking to control and direct the processes of manufacture brought about the substitution of the domestic system for the gild. Merchants are the theme of constant complaint in contemporary writers in connection with the woollen industry ; they defraud the craftsmen, we are told, who work for them ;<sup>130</sup> they "cause foul cloths to be made in England for low prices to truck

and barter them for merchandises in other countries ;”<sup>131</sup> and the popular anger was especially aroused against the foreigners, especially the Italians, who were undertaking the new business.<sup>132</sup>

But when the movement had once begun, it would be followed by all who saw their opportunity—by woolstaplers, by drapers, by landed proprietors, by energetic artisans from the towns. The requisite labour would readily be found in the unemployed of the agricultural districts ; and the necessary technical teaching could be obtained from the journeymen whom the restriction of gild privileges within the towns had rendered dissatisfied with their prospects.

It would seem, to judge by the frequency with which the statutes deal with the manufactures of “the West Country” and the Eastern Counties,<sup>133</sup> that it was in those directions that the new domestic manufacture had earliest and most widely extended itself. The manufactures of Yorkshire, which were destined ultimately to change the whole aspect of the north country, only began to attract attention in the middle of the sixteenth century.<sup>134</sup> Accordingly we are not surprised to find that the new conditions, as they are revealed to us for the first time by a statute of 1465,<sup>135</sup> were similar to those described, three hundred and forty years afterwards, by the Parliamentary Committee of 1806 as “the system of the Master-Clothiers of the West of England.” This act speaks of “cloth-makers” “*delivering*” wools to the labourers “to be wrought,” and enacts that the wages of the carders, spinners, and other workmen should be paid in money and not in kind. Half a century later, an act of 1511-12 gives a more explicit account.<sup>136</sup> It speaks of the wool being “delivered for or by the clothier” to certain persons “for breaking, combing,

carding, or spinning ; ” of the duty of the breaker or comber “to deliver again to the said clothier the same wool so broken and combed ; ” of the duty of the carder and spinner “to deliver again to the said clothier ” the due amount of yarn of the same wool ; of the duty of “the weaver which shall have the weaving of any woollen yarn to be webbed into cloth ” to “weave, webb, and put into the web for cloth as much and all the same yarn as the clothier, or any person for him, shall deliver to the same weaver ; ” and of the like duties of the walker (or fuller) to return unimpaired the cloth committed to him.

Thus the central figure to be studied in the new organization of labour is the clothier. He buys the wool ; causes it to be spun, woven, fulled, and dyed ; pays the artisans for each stage in the manufacture ; and sells the finished commodity to the drapers. Much confusion has been introduced into the subject by the lax use of terms by most writers since the sixteenth century. Familiar themselves with the action of “clothiers,” they have used that term in treating of previous periods for any one who had to do with cloth, mixing together weavers, cloth-finishers, drapers, and clothiers, without hesitation. But just as there is no evidence of a body of traders before the middle of the fourteenth century, so there is no evidence of a class of capitalist manufacturers till towards the middle of the fifteenth century.<sup>137</sup> For the new clothiers were not primarily concerned with one branch of the manufacture ; they were not artisans who bought cloth in an unfinished state, or dealers who bought it finished. They arranged for every stage of the manufacture ; and though the actual amount of capital which many of them could command must have been small, they certainly occupied the position of capitalists in relation to the artisans,—whom they em-



ployed in large numbers, and to whom they gave work as they chose.

The establishment of the new methods of manufacture was at once accompanied by the petty difficulties about the embezzling of material, which have everywhere been a characteristic trouble in the domestic system. Moreover, there were, quite early, a number of extortionate devices resorted to by the clothiers of the nature of truck, which, also, legislation was called for in order to remedy.<sup>138</sup> But with these small and unimportant exceptions the new conditions seem to have come into existence unchecked and unlimited by legislation until the middle of the sixteenth century.

Before turning to the later legislation, it will be interesting to notice one or two indications of the magnitude and character of the new enterprises. One such is to be found in the impression produced on the popular mind by the success of "the famous and worthy clothier of England, Jack of Newbury," or John Winchcombe. Jack of Newbury became one of the heroes of seventeenth-century chap-books; and it is from them that the story was taken by Fuller, which has been copied by modern writers, of his having kept a hundred looms at work in his own house, and of his having marched at the head of a hundred of his workmen to the battle of Flodden Field.<sup>139</sup> There can be no doubt, however, that there was a rich clothier of that name who carried on business at Newbury early in the sixteenth century; for his will, dated 1519, is extant, in which he makes a considerable bequest to the "edifying" of Newbury parish church.<sup>140</sup> His son continued the manufacture, and prospered so greatly that he received a grant of arms in 1549.<sup>141</sup> His goods gained a European fame; and in that same year (1549) the English envoy at Antwerp advised

the Lord Protector, as the best way of providing for the repayment of a loan, to send thither "a thousand of Winchcombe's kersies."<sup>142</sup> If we may accept the assurance of Herbert, that the Winchcombes of Newbury were descended from a certain Simon de Winchcombe, a rich draper of Candlewick Street in the later part of the fourteenth century,<sup>143</sup> we shall have additional reason for believing that the transformation of the conditions of production was the work of capital gained in trade.

The legend of Jack of Newbury doubtless exaggerated the extent of his operations. But it is certain that attempts were made here and there to bring together a number of workpeople under the same roof, as in a modern workshop. In several cases the old monastic buildings were utilized for this purpose. Thus Leland tells us, writing in 1542, that "the whole lodgings of the abbey" of Malmesbury "be now belonging to one Stump, an exceeding rich Clothier, that bought them of the King." "At the present time," he says, "every corner of the vaste houses of office that belonged to the abbey be full of looms to weave cloth in; and this Stump intendeth to make a street or two for clothiers in the back vacant grounds of the abbey."<sup>144</sup> So, again, at Cirencester "a right goodly Clothing Mylle was set up."<sup>145</sup> About 1546 Stump of Malmesbury entered into negotiations for the leasing of Osney Abbey, near Oxford, at an annual rental of £18; and among other conditions it was proposed that Stump should "bind himself to find work for two thousand persons from time to time, if they may be gotten, that will do their work well continually in cloth-making, for the succour of the city of Oxford and the country about it."<sup>146</sup> The negotiations apparently came to nothing; but clearly the intention was that the great workshops at Osney should be the centre of a large domestic industry

in the surrounding country. The mere proposal shows that such an enterprise was generally regarded as quite feasible.

The story of the disturbances in 1527, as it is told by the contemporary historian Hall, gives a further insight into the industrial organization which had by that time come into existence ; and it illustrates a proposition of the utmost moment in economic development, viz. that with the widening of the market there come an extension and intensification of all the evils due to the imperfect coincidence of supply and demand. The cessation of commercial intercourse with the territories of the emperor made it impossible for the English merchants to dispose of their stocks. "All broad cloths, kersies, and cottons lay on their hands. Inso-much as when the Clothiers of Essex, Kent, Wiltshire, Suffolk, and other shires which use Clothmaking, brought clothes into Blackwell Hall, of London, to be sold as they were wont to do, few Merchants or none bought any cloth at all. When the Clothiers lacked sale, then they put from them their spinners, carders, tuckers, etc., and such other which live by clothmaking, which caused the people greatly to murmur, and specially in Suffolk."<sup>147</sup> England was already manufacturing for a foreign market, and the sudden cessation of the demand threw masses of artisans out of employment. The implied relation between the "clothiers" and those "which lived by cloth-working" was clearly similar to the "system of the master-clothier of the West of England" described in the report of 1806. The state papers of the time show how serious the stoppage was. Wolsey tried to bully the London merchants into buying, and the government even offered to lend them money for the purpose ; and members of the Privy Council went down to the various counties and endeavoured to persuade the clothiers

to go on giving employment. But an economic crisis cannot be overcome by the will even of an absolute government. The people began to rise in rebellion, especially in the south and west, in Berkshire, Hampshire, and Wiltshire; and Wolsey saw himself obliged to yield to economic forces.<sup>148</sup>

We are now perhaps in a position rightly to interpret the legislation of Edward and of Mary. Let us first look at its provisions. An act of 1551-52<sup>149</sup> enacted that no person, after next Michaelmas, should "weave or make, or put to weaving or making, any manner of broad woollen cloth," unless he had been an apprentice to "the occupation of broad woollen cloth making or cloth weaving, or have been exercised and practised in and with broad cloth making or cloth weaving, by the space of seven years." A later act of the same session prohibited the employment of "gig mills" "for the perehing and burling of cloth," on the ground that thereby "the true drapery of this realm" was "wonderfully impaired, and the cloth deceitfully made."<sup>150</sup>

In 1554 the Edwardian act as to apprenticeship above quoted was repealed, so far as concerned the inhabitants of corporate towns and market towns.<sup>151</sup> It is not clear, from the language of the original act, whether it was intended to have reference to the *entrepreneurs*,—"the clothiers" proper,—or to the men for whom they found work, or both. But it would seem, from the recital in the later act, that it was actually applied against the clothiers themselves. "Many good Clothiers" dwelling in Worcester and other cities and towns "which had occupied and made cloth by the space of five or six years, and some which have married clothiers' wives, . . . have been enforced to leave off and clearly discontinue their clothmaking, to their great impoverishment, and to the utter undoing of a great number of poor people

and handiercraftsmen which daily had their living by the said clothiers."

But the most important of all the statutes was that of the next year, 1555, commonly known in later centuries as "the Weavers' Act."<sup>152</sup> The preamble sets forth the conditions which called for legislative action. "Forasmuch as the Weavers of this Realm have complained that the rich and wealthy Clothiers do many ways oppress them," (1) "some by setting up and keeping in their houses divers looms, and keeping and maintaining them by journeymen and persons unskilful, to the decay of a great number of Artificers which were brought up in the said Science of Weaving, their Families and Household;" (2) "some by ingrossing of Looms into their hands and possession, and letting them out at such unreasonable Rents as the poore Artificers are not able to maintain themselves, much less their Wives, Family, and Children;" (3) "some also by giving much less wages and hire for the weaving and workmanship of cloth than in times past they did;" the following enactments are made: 1. No clothier dwelling outside a city, or corporate or market town, shall keep in his house or possession above one woollen loom at one time, nor shall he profit in any way by letting looms, or houses containing them. 2. No country woollen weaver shall keep more than two looms, or receive any profit from more than two looms. 3. No weaver shall have a tucking-mill, or act either as tucker (= fuller) or dyer. 4. No tucker shall have a loom in his house or possession. 5. No person not already carrying on the business shall "make or weave, or cause to be made or woven, any kind of broad woollen cloths" outside corporate or market towns, or places where cloth had been commonly made for the last ten years. 6. Country weavers shall not have more than two apprentices. 7. None shall

(in future) "set up the Art or Misterie of Weaving" unless he has served a seven-years' apprenticeship. 8. The counties of York, Cumberland, Northumberland, and Westmoreland are exempted from the foregoing provisions.

The recital in a later act of 1557-58<sup>153</sup> is equally significant, and shows another side of the industrial revolution besides that already observed. It shows that the ranks of the clothiers were filled not only from the traders, but also from the ambitious craftsmen of the towns who saw a chance of making a fortune by setting up in the country. The act sets forth that "divers years past such persons as do use the Feate or Mistery of Clothmaking, not contented to live as Artificers, and with the trade wherein they have been brought up, do daily plant themselves in Villages and Towns, being no Cities, Boroughs, or Corporate Towns, and there occupying the Feate and Place of a Husbandman, do not only engross divers Farms and Pastures into their hands . . . but also draw with them out of Cities, etc., all sorts of Artificers." . . . Moreover, "the Weavers and Workmen of Clothiers, when they have been traded up in the trade of Clothmaking and weaving three or four years, do forsake their Masters, and do become Clothiers and Occupiers for themselves, without Stock, Skill, or Knowledge, to the great slander of the true Clothmaking." It is accordingly enacted that henceforward no persons shall exercise the mistery of making, weaving, or rowing of Woollen Cloths, long or short, or Kersies, pinned Whites, or plain Straights to the intent to put the same to sale, outside corporate towns, or market towns where the manufacture had been carried on for the last ten years. By a later clause, moreover, seven years' apprenticeship or exercise in the craft is also made requisite. But by other clauses all existing clothmakers, weavers, etc., were permitted to carry on their occupation ;

and from the rule as to corporate towns the following districts are exempted,—North and South Wales, Cheshire, Lancashire, Westmoreland, Cumberland, Northumberland, Durham, Cornwall, Suffolk, Kent, Godalmen in Surrey, Yorkshire outside a ten-mile radius from York, and the towns and villages adjoining the Water of Stroud in Gloucestershire.<sup>154</sup> The seven years' apprenticeship or exercise in the art was to remain, however, the fixed rule even in these districts.

It may be convenient to notice in passing the fate of this enactment as to corporate towns. In 1558-59 certain places in Essex were added to the list of excepted districts;<sup>155</sup> in 1575-76 all those places in Wilts, Somerset, and Gloucestershire, where the manufacture had been carried on for ten years;<sup>156</sup> and the enactment was finally repealed in 1623-24.<sup>157</sup>

Looking back now on the whole group of enactments, it will be observed that they fall roughly into three classes. The first are those which attempt to limit the growth of the industry in the country districts. We can hardly be mistaken in explaining the rule with regard to corporate towns and similar regulations as due in England, —as similar rules were undoubtedly due abroad,—to the influence of the town industry organized on gild lines, and struggling against the new domestic manufactures.<sup>158</sup> A second class were regulations which ostensibly aimed at securing good workmanship, especially by the rule as to apprenticeship. In demanding that such a restriction should be imposed upon the country workmen, the self-interest of the town craftsmen would be reinforced by the general belief in the desirability of state supervision. So far the historian is on well-trodden ground; and is but repeating what has already been said by Ochenkowski and



others. But it has hardly been noticed that there is a third class among these statutory rules, which has another and more surprising significance. These are the enactments as to the ownership and hiring of looms.<sup>159</sup> It is probable that many of the instances of exaction of which the workpeople complained were but cases of petty usurious extortion; that the evils, for instance, connected with the hiring out of looms were often of the same character as those connected with the letting of sewing-machines in our own time. But the language of the Weavers' Act about those who set up and kept in their houses divers looms, when compared with the examples of Winchcombe and Stump, suggests a further conclusion. It is that there was a movement towards the establishment of *manufactories*; in the sense of large establishments wherein a number of workpeople are brought together within the same walls, and carry on their work according to rules laid down by the employer, instead of in their own homes, and in the way they please.<sup>160</sup> This movement reappeared again at the end of the seventeenth and during the eighteenth century, when a certain number of manufactories were established,—even before the introduction of machinery gave the final impulse towards the aggregation of workpeople. As compared with the domestic system, the manufactory had the advantage of allowing greater division of labour, and the greater rapidity of production due to more efficient control. On the other hand, the domestic system was most convenient for the clothier with small capital, and freed him from much of the labour and responsibility of supervision. It has accordingly been urged that until the introduction of machinery the economic advantages of the manufactory were not sufficiently great to lead to its supplanting the domestic industry.<sup>161</sup> Whether this was the

case or not in later centuries, when the domestic system had firmly established itself, it is certain that in the sixteenth century it was not at all impossible that the large manufactory might become an important,—if not a dominant,—feature in the woollen trade of England. The prevention of such a development was due primarily to legislative action.

§ 46. As the rise in the fourteenth century of a great manufacture of English cloth for the home market and for exportation was the result, at any rate in a large measure, of the immigration of foreign weavers under Edward III., so the introduction under Elizabeth of the finer fabrics, which at last enabled English producers to rival foreigners in every branch of the woollen industry, was the result of a second immigration. The history of “the new drapery” falls outside the scope of the present chapter, and still requires to be investigated in detail; but some of the essential facts in relation to it may be mentioned in this place. Great as was the increase in the production of cloth, especially after the middle of the fifteenth century, almost all the exported pieces were still unfinished and undyed; and several attempts were made, by statutory prohibition of the export of unshorn or undyed cloth,<sup>162</sup> and in other ways, to overcome the difficulties caused by the absence of the necessary technical knowledge and skill. The inferiority, indeed, of English workmen in these respects did not disappear until the seventeenth century, as is evident from the various projects advocated in the reign of James I. for securing the profits of dressing and dyeing cloth within the kingdom.<sup>163</sup> Moreover, the foreigners had still an undisputed supremacy in the production of the finer fabrics. It was the religious troubles in the Netherlands and in France, which, like the political and social dissensions of the fourteenth century, by driving

skilled craftsmen to England, provided the necessary increment of technical ability. An attempt was indeed made in Norwich in 1554, by a number of leading citizens, to promote the manufacture of "Russets, Satins, and Fustians of Naples," "at their great costs and charges, as well in bringing in of certain Strangers from the parts beyond the seas, as also in making of looms and all other provisions for the same," and they had been incorporated as a Fellowship by Act of Parliament,<sup>164</sup> and given power to choose Wardens who should search for defective wares. This, it may be remarked in passing, is an interesting example of the transition from the older fraternity organization of the crafts to the later plan of regulated companies. But the substantial change in the English conditions was due to the voluntary and unaided migration of refugees. The migration of foreign refugees to England,—chiefly French, Walloons, and "Dutch," from the Low Countries,—began as early as 1544. A combined Dutch and Walloon Church was founded at London in 1550, and received a charter from Edward VI., with a grant for their use of the old church of the Austin Friars. Queen Mary ordered the refugees to leave the country, and more than four hundred of them obeyed.<sup>165</sup> Many, however, returned with the accession of Elizabeth, and with a number of newcomers settled at London and Sandwich, where they obtained license from the queen "to exercise the making of Flanders commodities of wool in her Majesty's dominions."<sup>166</sup> Six or seven years later it occurred to the mayor and corporation of Norwich that the introduction of new manufactures might do something to relieve the depression of trade which seems to have hung over that city, and by the influence of the Duke of Norfolk they secured, in 1565, a license by letters patent from the Crown for a certain number of strangers to reside and carry on their craft in Norwich. The license

was limited to "therty Douchmen of the Low Countries of Flanders" with their families and servants, not to exceed the number of three hundred in all, and they were permitted to exercise "the faculties of making Bays, Arras, Says, Tapstrey, Mockadoes, Staments, Carsay, and such other outlandish commodities as hath not been used to be made within this our realm of England."<sup>167</sup> But though the commercial magnates of the city were eager for their coming, it was not popular with the people, and the Common Council refused to set its seal to the necessary licenses; whereupon the mayor took the matter into his own hands, and issued licenses to twenty-four "Duche Masters," and six "Wallowne Masters."<sup>168</sup> A church was at the same time handed over to them to serve as their Hall, for the examination and sealing of their cloths; and they agreed to "articles" which gave them the ordinary constitution of the companies of the time.

The renewal of persecution by Alva in 1567 brought about a fresh flight of the Reformed to England. From an interesting series of letters, which have been preserved, written by refugees at Norwich in this year to friends still at home at Ypres, we get some glimpses into the position of the new-comers. One writes to his father and mother, his brother and sisters, appealing to them to come to England at once, and adding, "I and my brother will supply you with what you require here as weavers, for there is a great trade doing." Another tells his wife and children of his safe arrival, and of the warm welcome from friends who had come before. She is to sell their property and come over, but to bring all her clothes, "for people go well clad here." "There is a good trade in bays, and I will look after a house as quickly as I can to get into business, for then it will be easy to make money.

I will get ready the gear for making bays against your coming.”<sup>169</sup>

As early as 1568 there were no less than 1132 Flemish-speaking and 339 Walloon-speaking strangers within Norwich; and similar settlements were made in Colchester, Sandwich, Canterbury, Southampton, London, Southwark, and elsewhere.<sup>170</sup> Next year there were almost three thousand in Norwich alone. A good deal of discontent was felt by the “common people;” and there was even a conspiracy, in which some of the gentry of the city and county participated, to drive them out of the city. Moreover, even the prosperous citizens who welcomed them were desirous of benefiting by their presence in a way the new-comers hardly liked. It was attempted, for instance, to prevent their selling their goods to any save freemen of the city; and when the strangers appealed to the Privy Council, and the corporation were requested to allow them to sell their goods freely, as their brethren at Sandwich and Colchester did, there arose no little irritation.<sup>171</sup> The freedom claimed by the strangers did indeed come into violent collision with the strong popular feeling against “foreign bought and foreign sold,” to which attention has already been called [Bk. 2, ch. i.]. A compromise, however, was arranged in 1571 in the “Book of Orders for the Strangers.” Henceforward the strangers might “sell the commodities of their own making to any person or persons, English or stranger, without let or interruption, so that they do it in the sale-hall only.” “Strangers buying of the said Dutchmen their commodities . . . shall not be troubled as for foreign bought and foreign sold . . . so that the said strangers do not sell the same bought wares again within the city, but in the sale-hall only. And it shall be lawful to the said strangers to carry away and sell their commodities in the city of

London or in any other city within the realm, or to transport the same beyond the seas . . . but not to sell the same in villages, market-towns or common fairs in England." <sup>172</sup>

The subsequent history of the foreigners in Norwich and elsewhere must be deferred to a later section. So far as one can see, their industrial organization was a loose form of the gild system; or perhaps rather of the domestic type with certain of the gild forms still retained. What is certain is that they enriched England with new and flourishing manufactures within a few years. "They brought a great commodity thither,"—says an anonymous note of "the benefits received by (*i.e.* from) the strangers in Norwich for the space of ten years,"—"They brought a great commodity thither, *viz.* the making of bays, moccados, gogroynes, all sorts of tuftes, etc., which were not made there before, whereby they do not only set on work their own people but do also set on work our own people within the cittie, as also a great number of people near twenty miles about the city, to the great relief of the poorer sort there." <sup>173</sup> Camden, who was himself almost a contemporary, and doubtless reports general opinion, declares that "they were the first that brought into the Nation the art of making those slight stuffs called Bays and Says, and other linen and woollen cloths of the same kind." <sup>174</sup> As the old distich ran—

" Hops, Reformation, *Bays*, and Beer  
Came into England all in a year." <sup>175</sup>

The distribution of the various branches of the clothing manufacture at the beginning of the seventeenth century is roughly indicated by the well-known table of Fuller, with which this chapter may conclude—

- “ East. Norfolk--Norwich Fustians.  
 Suffolk--Sudbury Bayes.  
 Essex--Colchester Bayes and Serges.  
 Kent--Kentish Broad-cloths.
- West. Devonshire Kirses.  
 Gloucestershire, } Cloth.  
 Worcestershire, }  
 Wales--Welsh Friezes.
- North. Westmoreland--Kendal Cloth.  
 Lancashire--Manchester Cotton.  
 Yorkshire--Halifax Cloths.
- South. Somersetshire--Taunton Serges.  
 Hampshire, }  
 Berkshire, } Cloth.” <sup>176</sup>  
 Sussex.



## NOTES.

1. Bishop Berkeley, in 1737, quoted in Toynbee, *Industrial Revolution*, 46.
2. Davenant, *Of Gain in Trade* (1699), 47.
3. Madox, *History of the Exchequer*, 231.
4. Cf. J. S. Mill., *Pol. Econ.*, bk. 1, ch. viii. § 6.
5. Part i. 81-83.
6. *Ib.*, 86.
7. *Ib.*, 195.
8. *Ib.*, 180.
9. During the sixth and seventh years of John, the king's chamberlains of London are recorded to have received about £100 "for license to bring woad into England and sell it," and in six months in the twelfth year the wardens of the ports accounted for almost £600: Madox, *Exchequer*, 531, 532, col. 1; 530, 531, col. 1. Macpherson, *Annals of Commerce*, i. 359, 382, has made use of Madox's figures. But he is mistaken in supposing the figures given for 12 John to apply to the whole of one year. The text is headed, "Compotus Custodum Portuum Maris a feste S. Michaelis anno xii. usque ad mediam Quadragesimam anni sequentis hunc annum"—the half-year from Michaelmas 1310 to Midlent 1311, falling within John's twelfth year. Dover is either exempted or specially dealt with, the assize of woad of Kent and Sussex being "præter doure."
10. Arras and the towns in its neighbourhood retained some traditions of the old skill of the Roman artisans; and northern France and Flanders early became famous for cloth of fine quality and rich colour: Schmoller, *Tucher- und Weberzunft*, 366, 367. In the eleventh and twelfth centuries the green and dark blue Flemish cloth took the place of linen as the dress of the upper classes in Germany.—*Ib.*, 363.
11. Cologne was later than the Flemish towns in obtaining manufacturing and commercial importance, but it was far in advance of the rest of Germany, especially in the art of weaving.—*Ib.*, 366.
12. Walter of Hemingburgh, i. 306. (ed. Engl. Hist. Soc.).
13. Thomas Wykes, *s.a.*, 1264, in *Annales Monastici* (Rolls' Series), iv. 158.
14. *Calendar. Rot. Patentium* (ed. 1802); 55 H. iii. i. M. 6, 10.—Rymer, *Fœdera*, i. 510, 513.
15. This was, if not the first settlement of foreign weavers, the first

that distinctly affected the progress of English industry. As to the alleged settlement of weavers in Pembrokeshire in the reign of Henry I., to which Mr. Cunningham refers, in his *Engl. Ind.*, i. 176, 282, n. 3, see the criticism by the present writer in the *Political Science Quarterly*, vi. (1891), 156.

15a. See List, *National System of Political Economy*, bk. ii. ch. xii. It has been well translated by Mr. Sampson Lloyd (1885).

16. Ashley, *Artevelde*, 69-71.

17. For the desperate effort of Poperinghe in 1343-44 to break down the exclusive right of Ypres to manufacture certain kinds of cloth such as those known as *riyed*, see *ib.*, 160; and also the judgments of which abstracts are given by J. L. A. Diegerick, *Inventaire des Chartes, etc., de la Ville d'Ypres* (1853), ii, 127, 134. Twenty of the agitators were actually banished to England, *ib.*, 135. In 1342 the count issued a similar judgment as to the rural district known as the Franc of Bruges. In this case the men of Bruges succeeded in putting an end to all manufacture of cloth *for sale* outside the village where it was made: "Il est défendu de fabriquer, tondre, teindre, vendre ou débiter du drap dans toute l'étendue du Franc de Bruges. . . . Les paroisses du Franc où se trouvaient antérieurement des métiers, rames, etc., pourront cependant conserver un seul métier, et s'en servir pour fabriquer du drap de leur propre laine. Ce drap ne pourra servir qu'à leur usage personnel et à celui de leurs femmes, enfants et domestiques, et il leur est strictement défendu de le vendre;" Diegerick, ii. 125. These circumstances were perfectly well known in England, where the Commons represented in 1347 that "les trois bones Villes de Flaundres, Gaunt, Brugges et Ipre, ne voillent soeffrer les petites Villes de Flaundres qui solcient achatre grantes summes de leines, overir Draps, mes ount destruit leur Instrumentz, en abbessement du pris des Leines."—*Rot. Parl.*, ii. 166.

18. "Causa mesteri sui inhibi excercendi et illos qui inde addiscere voluerint instruendi et informandi."—Rymer, *Fædera* (Record ed.), ii. 823.

19. *Ib.*, ii. 954.

20. *Ib.*, ii. 969.

21. 11 Edw. III., *Statutes*, i. 280.

22. Walsingham, *Historia Anglicana*, i. 221 (Rolls' Series).

23. Ashley, *Artevelde*, 84, 91.

24. *Ib.*, 106, 107.

25. Cf. Smith, *Memoirs of Wool* (1747), i. 25 n. It appears from the new *Calendar of the Patent Rolls*, Edw. III. (1327-30), recently issued (1891) by the Deputy-keeper, that this act of Edward III. was in some of its provisions but a renewal of an ordinance of Edward II. In May, 1327,

Edward III. sent a mandate to the Mayor of London ordering him to proclaim and enforce certain ordinances of the late king and his council. After fixing the staple at a number of towns within England, and giving aliens liberty to export wool and other staple produce to countries in amity with England, the ordinances continued (according to the abstract in the *Calendar*, 99): "That no man or woman of boroughs, cities, or commons outside boroughs or cities . . . shall . . . use cloth of his or her own buying, which was not made in England, Ireland, or Wales." Knights and all persons of higher rank, and clergy with a rental of £40 and above, were exempted. It was added, "that every man and womau . . . may make cloths as long and as short as they please;" and "that in order to encourage people to work upon cloths, the king would have all men know that he will grant suitable franchise to the fullers, weavers, dyers, and other clothworkers who live mainly by this mystery, whenever such franchises are asked for." Though there is here no express mention of foreigners, we may probably see a foreshadowing of the policy afterwards pursued by Edward III. It will be seen that the enactment of 1337 about the wearing of foreign cloth is much wider in its scope than this ordinance.

26. To judge from the recital in *Fædera*, iii. 23.

27. Ashley, *Artevelde*, 176-178.

28. The writ to the Mayor of London, insisting on their protection, is printed in J. Delpit, *Collection . . . des Documents Français qui se trouvent en Angleterre* (1847), i. 78.

29. *Liber Custumarum*, 416-425, and Riley's *Preface*, lxvi. The pleadings are also given, with some imperfect lines, in *Placita de Quo Warranto* (ed. 1818), 465.

30. *Fædera*, iii. 23.

31. "Les Tylers (telarii) prient qe leur Chartre leur soit allowe, issi qe les estraunges soient per eux justifiez en leur Gilde . . . ou autrement, qils puissent estre descharges de la dite ferme de vintz marcz."—Madox, *Firma Burghi*, 284, n. col. 2.

32. "Faciunt omnimodos pannos radiatos, et coloratos, et alios pannos, . . . et se justiciare nolunt per Telarios predictos."—*Ib.*, 285, col. 2.

33. "Intellexerimus quod licet . . . portiones ipsos de illis viginti marcis, quæ per Telarios . . . ad opus nostrum annuatim solvuntur juxta assessionem super ipsos operarios per dictos Telarios impositam contingentes, gratanter solvissent, ipsi tamen Telarii dictæ civitatis ipsos operarios extraneos ad essendum de Gilda sua in Civitate predicta, et ad veniendum ad Curiam suam per varias districtiones compulerunt."—*Ib.*, 286, col. 2.

34. "Vobis mandamus quod ipsos Egidiun . . . vel alios hujusmodi

operarios pro eo quod ipsi de Gilda dictorum Telariorum . . . non existant . . . non molestetis."—*Ib.*, 287, col. 1.

35. Statement of Cokenage, 10 Hen. IV., in Madox, *Firma Burgi*, 199. I have not been able to find it on the Rolls of Parliament, but there can be no doubt that such an exemption was granted. In the *Calendarium Rotulorum Patentium* (1802) is entered, under 26 Edw. III. (p. 161): "Amplæ libertates pro operariis pannor' de partibus exteris infra regnum morantibus;" and the weavers' petitions of 1406 and 1414 state that "en le temps le roy E le tierce, encountre les ditz Libertees et Fraunchises, a l'instance et supplication des Wevers aliens, estoit grauntez Q'ils serroient exempts du dite Gylde, et q'ils ne rien paierent du dite ferme."—*Rot. Parl.*, iii. 600; iv. 50.

36. In list of royal writs in Letter Book G, compiled between 1353 and 1375, in *Liber Albus*, 628, 649.

37. *Ib.*, 642.

38. Translated in Riley, *Memorials of London*, 306.

39. *Ib.*, 331.

40. *Ib.*, 345.

41. List in Herbert, *Livery Companies*, i. 34.

42. Madox, *Firma Burgi*, 195–197. Madox is not sure that "the gild of weavers with broad looms" is the same as "the gild of weavers." But neither the term *gild* nor the term *firma* would have been used in the case of a newly formed company.

43. This was the answer in 1406, *Rot. Parl.*, iii. 600. In 1410 the answer was "Soit commis al Conseil le Roy."—*Ib.*, iv. 50.

44. Case before the Exchequer Court, in 7 Edw. IV., given in Madox, *Firma Burgi*, 214.

45. *Reports from Commissioners on Munic. Corporations, London* (1837), 208, 210. "Parties carrying on the trade of weavers in London are summoned to take up their freedom in the company, the court having the power by the charter to compel them to do so. Parties within the jurisdiction of the city generally have submitted to the authority of the court, but several cases have occurred where it has been necessary to proceed by actions at law, in all of which the company has been successful."

46. *Fædera*, ii. 1098.

47. Thomas Blanket was bailiff in 1340 and 1342; one of his brothers was bailiff in 1349; two brothers sat, one in the parliament of 1362 and the other in that of 1369; and Thomas was summoned to the council of merchants at Westminster in 1369.—George Pryce, *Memorials of the Canynges' Family* (1854), 52, 53.

47a. The story that the stuff known as *blanket*, and the article of bed-furniture made of it, derive their names from this Thomas Blanket, is disproved by the circumstances (1) that the name of the stuff appears in English as early as 1300; (2) that the word in the sense of a woollen bed-sheet appears as early as 1345; (3) that the word is derived from the O.F. "blankete," which, as well as the Latinized form, *blanchetus*, was of contemporary and probably earlier use. See Murray, *Dict.*, and Ducange, *s.v. Blanchetus*. On the other hand, if the personal name was derived from the fabric, it must have been in an earlier generation, since a family of Blankets is known to have dwelt in the village of Claines, co. Worcestershire, as early as the reign of Edward I., holding half a hide of land known as "The Blankets."—Nash, *Worcestershire* (1781), 203.

47b. "Great feuds had continually prevailed between the native and the Flemish weavers of Norwich . . . but now a better feeling began to exist between them, and the former petitioned Parliament for the incorporation of alien weavers into the gild of English weavers."—James, *Worsted Manuf.*, 72. Unfortunately no reference is given.

48. Misselden, *The Circle of Commerce*, 119, copied in Macpherson, i. 553; Smith, *Memoirs of Wool*, 43.

49. *Rot. Parl.*, ii. 168. This was in some sense certainly a new custom, for the petition of the Commons speaks of that on cloth as "*ja de novel faite*," and that on worsted cloth as "*une nouvelle Custume*." So also Mr. Dowell, *Hist. of Taxation*, i. 167, implies that the imposition was altogether a new one. Mr. Hubert Hall, however, maintains (*Customs-Revenue of England*, ii. 120, 121) that nothing "had ever been suffered to leave or enter the kingdom unlicensed or uncustomed," and that the refusal of the English merchants in 1304 to consent to pay the *Nova Custuma* levied on foreign merchants (which did include a duty on cloths) only left them subject to an *ad valorem* custom. Probably what was done was to raise the amount and establish a regular and definite scale of charges.

50. The rates were for "merchants of England" for every cloth, 1*d.*; for every cloth of worsted, 1*d.*; and for every lot, 10*d.*; for strangers, 21*d.*, 1½*d.*, and 15*d.*, respectively. Though these two scales are given, it is implied that the exportation is chiefly in the hands of foreigners, for the complaint is that now "no stranger merchant comes." The rate to foreigners on ordinary cloth had, according to the New Custom of 1302, been 1*s.* per piece.

51. *Rot. Parl.*, i. 292 (1745).

52. Blomefield, *Norfolk*, ii. 79, and next note.

53. *Calendar of Patent Rolls* (1327-1330), 31. It is carefully

mentioned in all the notices of this appointment that it was "ad requisitionem Isabellae reginae." It may have been nothing but a piece of favouritism so far as the person was concerned; but the creation of the office was in accordance with the general policy of the government.

54. *Ib.*, 297.

55. *Ib.*, 424.

56. According to "the copy of their old letters patent," which the craftsmen produced in 1348.—*Rot. Parl.*, ii. 204.

57. It does not appear in the new *Calendar of Patent Rolls*, 1327–1330.

58. *Rot. Parl.*, ii. 204. Blomefield, ii. 67, asserts that Robert "still exercised the assay and aulnage . . . and insisted that his patent was still good during his life." This may have been the case, but it does not appear in our evidence.

59. Blomefield, ii. 67, says that on the occasion of the petition of 1348, "the bailiffs had a grant of it for a time." But he adduces no evidence, and the assertion seems hardly reconcilable with the petition of 1410.

60. *Ib.*, ii. 82. The two wardens belonged, as is clear from the lists of Bailiffs and Burgesses in parliament given by Blomefield, to the civic aristocracy.

61. *Rot. Parl.*, iii. 637.

62. Blomefield, ii. 91.

63. Retaliation on the part of foreigners would, it declares, be "final destruction des Merchauntz, come a la dite Citee, qui ne usent autres Merchandise en substance forsque soulement les detz Worstedes."

64. These were (1) "*les Draps de Worstedes appelez Boltes*, autrement appelez Thretty Elnys" of two sizes, "Thretty Elnys streites" and "Thretty Elnys brodes;" (2) "*les Worstedes appelez Mantelles*," of which the varieties enumerated are "Sengles, demy-doubles, et doubles, si bien les motles, paules, chekeres, raies, flores, pleynes, monkes-clothes et autres . . . Mantelles;" (3) "*les Worstedes appelez Chanon clothes*," namely, "sengles, demy-doubles, et doubles;" and (4) "*les Worstedes appelez Worsted-beddes*," namely, "doubles et sengles, de trois assises."

65. Herbert, *Livery Companies*, i., 233, says: "The Sumptuary Act, 37 Edw. III., proves the mercers to have sold in that reign woollen cloth. . . . It ordains that . . . mercers and shopkeepers in towns and cities "shall keep due sortment thereof." The act does not mention mercers at all; it mentions only "drapers et fesours de draps."

66. The *gilda parariorum* appears among the adulterine guilds in 1180 (Madox, *Exchequer*, 391), but is not subsequently mentioned. See Ducange, *s.vv.* *Pararia*, *Parator*; and Littré, *s.v.* *Pareur*.

67. Instances in Rogers, *Hist. of Agr.*, iv. 566; see also n. 9<sup>o</sup>, *infra*.



Probably most of the cloth came to market unshorn; cf. Schmoller, *Tucher- und Weberzunft*, 418.

68. For the Merchants of the Staple, see Schanz, *Englische Handelspolitik gegen Ende des Mittelalters*, i. 329-332. Williamson's *Foreign Commerce of England under the Tudors* (Oxford "Stanhope Essay," 1883) is a useful abstract of Schanz's work.

69. When, in the middle of the fourteenth century, the men of Poperinghe in Flanders tried to break down the monopoly of manufacture enjoyed by Ypres, and were defeated, one of the articles imposed upon them was that they should never sell cloth in retail. "Cependant s'il leur reste un coupon du drap fabriqué pour leur usage, ils pourront le déposer dans la maison du tondeur pour le vendre."—Diegerick, *Inventaire d'Ypres*, ii. 127. It may be noticed also that the Act 5 and 6 Edw. IV., c. 6, § 9 (*St.*, iii. 138), speaks of "Draper, Merchaunt Taylor, Clothworker, or other person which shall retail any of the cloths."

70. Especially for weavers, see Statutes of Weavers of S. Marcel, 1371, in Fagniez, *Etudes sur l'industrie et la classe industrielle à Paris, au xiii. et xiv. siècle* (Bibl. de l'école des hautes études, 1877), 339. Fagniez's work, useful for its references and quotations, has its value to the economic historian lessened by his unscientific method of quoting documents separated from one another by a century or more, as if they referred to the same stage of industrial development. He has also taken from Depping the phrase "Tisserands-drapiers," for which no authority is given. Drapers appear neither in the ordinances issued by the Prévôts of Paris between 1270 and 1300, nor in Etienne Boileau's *Livre des Métiers*. So that it is impossible to suppose that a class of *dealers* in cloth existed at that date.

71. *Ib.*, 106, n. 1; 335, "ordonnances ancinnement faictes sur le mestier des *foitons* drappiers de la ville et terre St. Genevieve."

72. *Ib.*, 234.

73. 1362, according to Depping, *Règlements sur les Arts et Métiers de Paris*, 113, n. 2.

74. "Pentecost le Draper," in 1222, *Hist. MSS. Com.*, 9th Rep., i. b.; "Gervase the Draper," end of reign Hen. III., 5th Rep., 559; "Rothard le Draper" in 1289; *ib.*, 326.

75. Herbert, *Livery Companies*, i. 480. The preamble, which is very important, is omitted by Herbert; but an abstract is given in the Drapers' Company Return, in *Report of Livery Companies Commission* (1884), ii. 170.

76. Herbert, i. 426.

77. Abstracts of charters in Return of the Clothworkers' Company in *Livery Companies Com.*, ii. 674.



78. *Eboracum* (1788), i. 222; *Records of Oxford*, 331; *The Pageant of the Company of Sheremen and Taylors*, Sharp (1817).

79. The translation in Herbert, i. 480, is meaningless. The clause runs: "Que nul que eit drap' a vendre en la dite cite, ou en les suburbs, ne les vende forsque as drapers enfranchiez en la dite mestier de draperie, s'il ne soit en gros as seigneurs, et autres du commune, qi les voillent achater pour lour oepe demesne, et nemie a rataille."

80. *Liv. Comp. Com.*, ii. 173.

80a. St. Swithin's Lane leads out of Cannon Street.

80b. For the various explanations which have been given of the purpose of the "great stone called London stone," which is still to be found in Cannon Street, see Stow's *Survey of London*, ed. Strype (1720), 193.

81. *Minor Poems of Lydgate*, ed. Halliwell, Percy Soc., 106.

82. Herbert, i. 427.

83. *Liv. Comp. Com.*, ii. 173.

84. *Ib.*

85. Stowe, *Survey of London*, first ed. 1598, 227-229.

86. Ordinances of Bakwelle halle, trans. in Riley, *Memorials of London*, 550.

87. *Liv. Comp. Com.*, ii. 173.

88. 7 Hen. IV., c. 9, *Statutes of Realm*, ii. 153: It must be noticed that for the acts of the whole of the fourteenth and fifteenth centuries, the translation, which is of later date and uses later terms, cannot be relied upon. The importance of Blackwell Hall, as late as 1712, may be illustrated by the references to it in Arbuthnot's *John Bull*, chs. 7 and 15.

89. *Englische Handelspolitik*, i. 332, seq.

90. Pauli, *Drei volkswirtschaftliche Denkschriften aus der Zeit Heinrichs VIII.* (Abh. d. K. Gesellsch. d. Wissenschftn. Göttingen, 1878), 44, 45.

91. John Wheeler, *A Treatise of Commerce* (1601), 10, 19.

92. Schanz, i. 9, 442.

93. *Ib.*, 443.

94. The author of the *Libel of English Policy*, written in 1436, is doubtless right when he says to the Flemings—

"The grete substance of your clothe, at the fulle,  
Ye wot ye make hit of our Englische woole;"

and of Spanish wool—

"Hit is of lytelle valuc, trust unto me,  
Wyth Englische wolle but if it menged be,"

*Political Poems*, ed. Wright, Rolls' Series, ii. 161-2. For proof of the

superiority of English to Spanish wool as late as 1438 and 1441, see Macpherson, i. 654, 655. See also references in Hildebrand, *Jahrb. für Nationalökonomie*, vi. 199, n. 54.

95. Thun, *Die Industrie am Niederrhein*, ii. 246; Held, *Zwei Bücher zur sozialen Geschichte Englands*, 541, seq.

96. Even in such a town as Colchester, there were in 1305 only eight (master?) weavers, six fullers and three dyers.—Rogers, *Six Centuries of Work and Wages*, 121.

97. Thus the York weavers had a monopoly for the county; those of Nottingham for ten leagues around; those of London in places pertaining to London, a phrase wide enough, perhaps, since Henry I.'s charter, to cover Middlesex.

98. Hence it might be well to follow those German writers who have used the term *Handwerk*, and to speak of *Handicraft-system*; but this might lead to confusion with the state of things which followed.

99. The classical passage describing the Domestic System in England in the eighteenth century, is to be found in the *Report from the Committee* (of the House of Commons) *on the Woollen Manufacture of England*, 1806, and is given below. I have thought it worth while to print with it a definition of the work of the *shearers*, or *clothworkers*; and a description of the *gig mill*. It will be noticed that the Committee regarded the system of the Master Clothier of the West of England as more akin to the factory system than to the Domestic. A broad view of the subsequent development will show, I believe, that it was only a variety of the Domestic System. In the West of England System, and also in the Domestic System proper, the craftsmen worked in their own homes, subject to their own will as to hours and most of the other conditions of their labour.

“In July, 1802, considerable riots and outrages took place in Wiltshire and Somersetshire, in consequence of an attempt of some of the Master Clothiers of those counties to set up a machine for dressing cloth, called a Gig Mill. This Machine was, from various causes, obnoxious to the Workmen, and from an apprehension, it is supposed, of the disturbances which the first introduction of it might produce, it had never been set up in the above counties, though it had been for many years in use in Gloucestershire as well as in other parts; it had even been by no means unusual for the Clothiers of Wiltshire, and of some other districts where it was not worked, to send their Cloth to a distance to be dressed by it. The disturbances above related . . . were not quelled without serious consequences; and the discontents continuing, and the Workmen learning that there was still to be found in the Statute Book an ancient law

prohibiting under heavy penalties the use of a machine called a Gig Mill (though doubts existed whether it was the machine which now bears that denomination), conceived the project of preventing its further establishment by calling the above Statute into operation," p. 3.

As to "the 5th and 6th of Edward VI. for putting down Gig Mills, various witnesses were called to prove that the Machine now used under the denomination of the Gig Mill, for the purpose, after the Cloth comes from the Fulling Mill, of raising the Nap or Wool (being the very Machine, it is contended, against which the ancient Statute was directed), is highly injurious to the texture and quality of the Cloth; that, therefore, the law of Edward for prohibiting its use, ought, if necessary, to be explained and enforced, it being one of those Statutes which, to use the words of the Petitioners, although they have been violated by the Master Clothiers, under the pretence of their being obsolete, are calculated to promote the preservation and prosperity of the Woollen Manufacture, and the protection of the persons employed therein.

"Evidence of a similar nature and tendency was given respecting the injurious effects of another Machine, as yet not much in use, called the Shearing Frame, the purpose of which is to cut off the Nap or Wool after it has been raised; an operation which has been hitherto performed by a particular class of men, called from their occupation, Croppers, Shearmen, or Clothworkers. . . . With regard to the actual effects on the Cloth, of the Gig Mill and Shearing Frame, Your Committee feel it their duty to declare, that decisive evidence has been adduced before them, by Merchants and Manufacturers of the highest credit and greatest experience, to prove that the above Machines, especially the Gig Mill, the use of which has been longer and more generally established, when properly regulated and carefully employed, finish the Cloth in the most perfect manner," p. 6.

As to the 2nd and 3rd of Philip and Mary. "This Statute, commonly called the Weavers' Act, . . . limits the number of Looms which persons residing in Villages may keep in one house. It is highly valued, and its repeal strongly opposed, by another very respectable class of Petitioners. But . . . it may be expedient for your Committee to state that there are three different modes of carrying on the Woollen Manufacture; that of the Master Clothier of the West of England, the Factory, and the Domestic System.

" . . . The Master Clothier of the West of England buys his Wool from the Importer, if it be Foreign, or in the Fleece or of the Woolstapler, if it be of Domestic growth; after which, in all the different processes through which it passes, he is under the necessity of employing as many distinct classes of persons; sometimes working in their own houses.

sometimes in that of the Master Clothier, but none of them going out of their proper line. Each class of Workmen, however, acquires great skill in performing its particular operation, and hence may have arisen the acknowledged excellence, and till of late, superiority of the Cloths of the West of England. . . .

"In the Factory System, the Master Manufacturers, who sometimes possess a very great capital, employ in one or more Buildings or Factories, under their own or their Superintendents' inspection, a number of Workmen, more or fewer, according to the extent of their Trade. . . . Both in the system of the West of England Clothier, and in the Factory System, the work, generally speaking, is done by persons who have no property in the goods they manufacture, for in this consists the essential distinction between the two former systems and the Domestic.

"In the last mentioned, or Domestic System, which is that of Yorkshire, the Manufacture is conducted by a multitude of Master Manufacturers, generally possessing a very small, and scarcely ever any great extent of Capital. They buy the Wool of the Dealer; and, in their own houses, assisted by their wives and children, and from two or three to six or seven Journeymen, they dye it (when dyeing is necessary), and through all the different stages work it up into undressed Cloth," p. 8.

" . . . When it has attained to the state of undressed Cloth, he (the Manufacturer) carries it on the Market-day to a public Hall or Market, where the Merchants repair to purchase.

"Several thousands of these small Master Manufacturers attend the Market at Leeds, where there are three Halls for the exposure and sale of their Cloths; and there are other similar Halls, where the same system of selling in public Market prevails, at Bradford, Halifax, and Huddersfield. . . .

"The greater part of the Domestic Clothiers live in Villages and detached houses, covering the whole face of a district of from twenty to thirty miles in length, and from twelve to fifteen in breadth. . . . A great proportion of the Manufacturers occupy a little Land, from three to twelve or fifteen acres each. They often likewise keep a Horse, to carry their Cloth to the Fulling Mill and the Market," p. 9.

"It is one peculiar recommendation of the Domestic System of Manufacture that . . . a young man of good character can always obtain credit for as much Wool as will enable him to set up as a little Master Manufacturer," p. 10.

100. Cf. similar development on the lower Rhine, in Thun, i. 16-18; and for complaints of the extension of industry to the rural districts as late as 1775, Schmoller, *Zur Geschichte der Kleingewerbe in Deutschland*, 15.

101. See especially More's *Utopia* and Latimer's *Sermons*. A catena of quotations from the sixteenth-century writers is given in Schanz, i. 466, seq. Of modern writers, see especially Nasse, *Agric. Community of Middle Ages*; Ochenkowski, *Englands wirthschaftliche Entwicklung*, 35, seq.

102. Thus the French Herald is made to say, in the *Debate between the Heralds*, by the Englishman John Coke, secretary to the company of Merchant Adventurers: "In England your clothiers dwell in great farms abroad in the country, where as well they make cloth and keep husbandry, as also graze and feed sheep and cattle."—*Debat des Herauts d'armes* (Société des anciens textes Françaises, 1877), p. 105. See also quotations in Schanz, i. 606.

103. Cf. Toynbee, *Industrial Revolution*, 65.

104. 12 Rich. II., c. 14 (1388); *St.*, ii. 60. We find later the "cloths and dozens of the West Country" in 11 Hen. IV., c. 6 (1409-10); *ib.*, 164.

105. 13 Rich. III., c. 10 (1388-9); *ib.*, 64.

106. 15 Rich. II., c. 10 (1391); *ib.*, 81.

107. 1 Hen. IV., c. 19 (1399); *ib.*, 119.

108. 27 Edw. III., st. i. c. 4; *St.*, i. 330.

109. "Nest pas lentent du Roy que les draps que gentz font . . . pour vendre as meindrez gentz que ne seront forfaitz tout ne soient ils de tiel mesure;" 47 Edw. III.; *ib.*, 395.

110. 3 Rich. II., c. 27; 7 Rich. II., c. 9; *St.*, ii. 13, 33.

111. Dr. Murray, *Dictionary*, s.v., mentions the conjectures that these were the crews of the vessels known as *cogs*, or traders who sailed in *cogs*.

112. 13 Rich. II., c. 10; *St.*, ii. 64.

113. 17 Rich. II., c. 2; *ib.*, 88.

114. 1 Hen. IV., c. 19; *ib.*, 119.

115. 7 Hen. IV., c. 10; *ib.*, 154.

116. 9 Hen. IV., c. 6; *ib.*, 160.

117. "Coloured and ray" seem all-inclusive terms in, e.g. *St.*, ii. 33, 154-168.

118. 11 Hen. IV., c. 6; *ib.*, 163.

119. 13 Hen. IV., c. 4; *ib.*, 168.

120. 11 Hen. VI., c. 9; *ib.*, 284.

121. 4 Edw. IV., c. 1 (1465); *ib.*, 403. For Norfolk, Suffolk, and Essex, in 8 Edw. IV., c. 1 (1468); *ib.*, 425.

121a. 1 Rich. III., c. 8; *ib.*, 489.

122. 5 & 6 Edw. VI., c. 6; *St.*, iv. 136.

123. Schanz, *Handelspolitik*, ii. 18.

124. *Ib.*, 17, and n. 6.

125. *Ib.*, 28, and n. 1.

126. *Ib.*, 14, and n. 1. This was in spite of the disproportion mentioned later between the customs on cloth and those on wool.

127. 3 Edw. IV., c. 4; *St.*, ii. 397.

128. 4 Edw. IV., c. 1; *ib.*, 407.

129. Schanz, i. 441.

130. *Political Poems*, ed. Wright (Rolls' Series), ii. 285.

131. Armstrong's Sermon in Pauli, *Drei volkswirthschaftliche Denkschriften*, 65, makes this charge against the Merchant Adventurers.

132. 1 Rich. III., c. 9; *St.*, ii. 489.

133. 12 Rich. II., c. 14; *St.*, ii. 60. 13 Rich. II., c. 10; *ib.*, 64. 11 Hen. IV., c. 6; *ib.*, 164. 7 Edw. IV., c. 2; *ib.*, 421.

134. 34-35 Hen. VIII., c. 10, attempts to restrict the manufacture of coverlets to the city of York, as against the surrounding country. 2-3 Ph. & M., c. 11, exempts the three counties of Cumberland, Northumberland, and Yorkshire from the rules there enacted as to apprenticeship, etc. The first mention of the woollen manufacture at Halifax is said to be in 1556; Smith, *Memoirs of Work*, i. 98.

135. 4 Edw. IV., c. 1; *St.*, ii. 405.

136. 3 Hen. VIII., c. 6; *St.*, iii. 28.

137. This is probably true for France and Germany also. Schmoller (*Tucher- und Weberzunft*, 411) refers to the regulations of 1308, at Amiens, as showing the dependence, as early as that date, of spinners, weavers, dyers, and fullers upon drapers. But the drapers (or clothiers) do not seem to be mentioned in that document, in which, indeed, there is nothing to show that such a class then existed.

138. See the statutes cited in nn. 135, 136 above.

139. Lysons, *Magna Britannia* (1806), i. 320. The Bodleian possesses, in the Douce collection, a copy of "*The Pleasant History of John Winchcomb, in his younger yeares called Iack of Newbery*, the eleventh edition, corrected and enlarged by T. D." [*i.e.* Thomas Deloney], 1630. A MS. note by Douce states that the first edition was probably printed in 1597. On the flyleaf there is "a sketch of Jack of Newbury's house from recollection, made by J. Flaxman, Esq., R.A., for F. Douce." This pamphlet gives an even more extravagant account of Jack's prosperity than that relied on by Fuller.

"Within one roome being large and long  
There stood two hundred Loomes full strong :  
Two hundred men the truth is so  
Wrought in these Loomes all in a row.

By every one a pretty boy  
 Sate making quilts with mickle ioy •  
 And in an other place hard by,  
 An hundred women merily  
 Were carding hard with ioyfull cheere  
 Who singing sate with voyces cleere.  
 And in a chamber close beside,  
 Two hundred maidens did abide,  
 In petticoates of Stammell red,  
 And milk-white kerchers on their head :

. . . . .  
 These pretty maids did never lin  
 But in that place all day did spin,  
 And spinning so with voices meet  
 Like Nightingals they sung full sweet.  
 Then to another roome came they,  
 Where children were in poore aray :  
 And every one sate picking wool,  
 The finest from the course to cull :  
 The number was sevenscore and ten,  
 The children of poore silly men :  
 And these their labours to requite,  
 Had every one a penny at night,  
 Beside their meat and drinke all day,  
 Which was to them a wondrous stay.  
 Within another place likewise  
 Full fifty proper men he spies,  
 And these were Sheremen every one,  
 Whose skill aud cunning there was showne :  
 And hard by them there did remaine  
 Full fourscore Rowers taking paine.  
 A Dye-house likewise had he then,  
 Wherein he kept full forty men :  
 And likewise in his Fulling Mill  
 Full twenty persons kept he still."

140. Extract from the will in *Hist. and Antiquities of Newbury* (1839), 76.

141. *Ib.*, 149. His descendant was created a baronet in 1671 ; Lysons, i. 321.

142. Burnley, *History of Wool and Wool-combing*, 69.



143. *Livery Companies*, i. 394 and 401, n.
144. *Itinerary*, ed. Hearne (ed. 1769), ii. 53.
145. The passage in Leland, v. 65, is not free from obscurity: "Nere to the Place where the right goodly Clothing Mylle was sot up a late by the Abbato was broken down the Ruine of an old Tower toward making of the Mylle Waulles." Leland does not expressly mention the abbey.
146. *Oxford Records*, 184.
147. Hall's *Chronicle* (ed. 1809), 745.
148. The information to be found in the *Calendar of State Papers* is conveniently gathered together by Schanz, i. 71, nn. 6, 7; and 72, n. 3.
149. 5 & 6 Edw. VI., e. 8; *St.*, iv. 142.
150. c. 22; *ib.*, 156. See also n. 99, *supra*.
151. 1 Mariæ, *St.*, 3, c. 7; *ib.*, 232.
152. 2 & 3 Phil. and Mar., e. 11.; *ib.*, 286.
153. 4 & 5 Phil. and Mar., c. 5, § 21; *ib.*, 325.
154. §§ 22-26; *ib.*, 326.
155. 1 Eliz., c. 14; *ib.*, 376. Other places in Essex were added in 1584-85; 27 Eliz., c. 23; *ib.*, 733.
156. 18 Eliz., c. 16; *ib.*, 626.
157. 21 Jac. I., e. 28; *ib.*, 1239.
158. See n. 100, *supra*.
159. Cf. the prohibition to have more than two looms in Strassburg, Schmoller, *T. W. Z.*, 523; and for the similar prohibition in the district of Ulm among the fustian weavers, see the review of Rübling in Schmoller's *Jahrbücher*, xiv. 273.
160. Cf. with the statute and the cases of Winchcombe and Stump, the proposal made some time in the reign of Henry VIII., "that no clothier, that hath not had exercise in his youth by the space of two years at the least in the craft of weaving, use or have in his house or at his commandment any loom," in Schanz, *Handelspolitik*, ii. 660.
161. Cf. on this subject Held, *Zwei Bücher zur socialen Geschichte Englands*, 578.
162. *E.g.*, 26 Hen. VIII., c. 16.
163. See for these Smith's *Memoirs of Wool*, chs. 30, 31.
164. 1 & 2 Phil. and Mary, c. 14; *St.*, iv. 260. Mr. Cunningham was the first of recent writers to call attention to this remarkable experiment. In the account, however, of the organization of the enterprise in *English Industry* (2nd ed.), i. 467, there seems to be a trifling inaccuracy. The "twenty-one persons" spoken of in the Act were the Mayor and six aldermen and six merchants, (these thirteen having combined to find the

capital), together with eight "of the most discrete and worthy men of the mystery of worsted weaving within the said city."

165. The chronology of these events is best worked out in Hessels' notes to the *Ecclesiæ Londino-Batavae Archivum* Tom. 2 (1889), 4, 5.

166. Moens, *The Walloons and their Church at Norwich*, 18.

167. The text of these letters patent was apparently printed for the first time by Mr. Moens in his *Walloons at Norwich*.

168. *Ib.*, 18.

169. *Ib.*, 220, 221.

170. *Ib.*, 25, 27.

171. *Ib.*, 28.

172. Full text, *ib.*, 257.

173. *Ib.*, 262. •

174. According to Camden, *s.a.*, 1568, quoted by Smith, *Memoirs of Wool*, i. 108.

175. Smith, *u.s.*, remarks that we do find both *says* and *bays* mentioned among English goods a few years before the great immigration. But the earlier manufacture of these goods was probably inconsiderable.

176. *The Church History of Britain*, endeavoured by Thomas Fuller, ed. 1655, 141. He adds, "Mid-England,—Northamptonshire, Lincolnshire, and Cambridge,—having most of wool, have least of clothing (*i.e.* cloth-manufacture) therein."

## CHAPTER IV.

### THE AGRARIAN REVOLUTION.

[AUTHORITIES.—The literature of the sixteenth century is full of references to enclosure. The following books will be found most useful: More's *Utopia*, trans. Ralph Robinson, Arber's Reprint (1869); *Select Works of Crowley*, Early Engl. Text Soc. (1872); Lever's *Sermons*, Arber's Rep. (1870); Becon's *Works*, Parker Soc. (1844); the pamphlets in *Drei volkswirtschaftliche Denkschriften*, ed. Pauli (1878). On the legal and agricultural sides of the change, Fitzherbert's *Book of Surveying* and *Book of Husbandry* are of first importance. The reprint in *Ancient Tracts on Husbandry* (1767) is not difficult to procure, and the *Husbandry* has been edited by Skeat for the Engl. Dialect Soc. (1882). The same Society has issued (1878) Tusser's *Five Hundred Points of Good Husbandry* (1573); of which there were earlier and less critical editions by Mavor (1812) and in Southey's *British Poets* (1831). For Ket's *Rebellion*, F. W. Russell's book should be consulted (1859), and also C. H. Cooper, *Annals of Cambridge*, ii. (1843). The *Returns* to the Commission of 1517 are about to be issued by the Royal. Hist. Soc., under the editorship of Mr. Leadam, who has already printed in its *Proceedings* for 1892 a valuable statistical abstract of the enclosures there specified; and a number of important documents concerning the Commission of 1548 are printed in Strype, *Ecclesiastical Memorials* (1822), ii. pt. 2. A volume of *Extracts from the Court Rolls of Wimbledon*, 1 Edw. IV. to 1864, prepared (1866) for the use of the committee defending rights of common, will be found of service. Among modern writers two only need to be mentioned. An admirable though brief account of the substitution of "farming for profit" for "self-sufficing farming" is given in ch. ii. of R. E. Prothero's *Pioneers and Progress of English Farming* (1888); and some additional information may be gathered from W. Cunningham's *English Industry and*

*Commerce*, vol. ii. *Modern Times* (1892), Bk. vi. ch. v., and Bk. vii. ch. v., which, however, appeared too late for the present writer to make use of it.

The materials for determining the *extent* of the enclosures may be arranged in the following groups:—

(a) The general statements of contemporary writers. The best known of these is the author of the *Briefe Concept of English Policy*, published by "W. S." in 1581, reprinted by the New Shakespeare Soc. (1876), and about to be reissued under the editorship of Miss Lamond and Dr. Cunningham. Miss Lamond has shown (in the *English Hist. Review*, April, 1892) good reason for believing that this treatise was written by John Hales, and afterwards awkwardly modified to suit later conditions. Besides this there are the rhymes of Tusser; and a number of pamphlets, especially one entitled *Certain Causes gathered together wherein is shewed the Decay of England by the Great Multitude of Sheep* (c. 1530), printed in *Four Supplications*, E.E.T.S. (1871).

(b) The specific statements of contemporary writers as to particular localities. Of these the most valuable are the scanty references to enclosures to be found in the *Itinerary* of John Leland, containing notes of his travels from 1538 onward. It was edited by John Hearne in 1768. To these may be added the *Returns* to the inquest of 1517, above mentioned.

(c) General statements as to the extent of land still unenclosed in the latter part of the last century. The estimates to be found in the county *Reports* or *Surveys*, drawn up at the end of the eighteenth century under the authority of the Board of Agriculture, are far more valuable and trustworthy than any of the preceding sources of information. Fortunately for those who wish to get at the main facts as quickly as possible, the indefatigable critic of the Board and of Arthur Young, William Marshall, took the trouble to draw up, in five volumes, a *Review and Complete Account of the Reports to the Board of Agriculture*, for the *Northern Department* (1808), the *Western Department* (1810), the *Eastern Department* (1811), the *Midland Department* (1815), and the *Southern and Peninsular Department* (1817). As early as 1796, the Board determined to "reprint" the original reports; and the new series, although in some cases they were but a reproduction of the first reports, in many instances contained much additional matter, while several of the counties were entrusted to other and more competent "surveyors." It is worth while, therefore, to consult the "reprints" as well as the original reports. Unfortunately the data presented by the surveys are usually only negative. When, for instance, they speak of certain enclosures as

"old," these indications may occasionally be found to correspond with sixteenth or seventeenth century evidence; but where they do not, the enclosure may have taken place any time before 1700.

(d) Specific statements as to particular districts and parishes still unenclosed in the latter part of last century. A good deal of information of this character is to be found in Arthur Young's *Tours*—the *Six Weeks' Tour through the Southern Counties* (1768); the *Six Months' Tour through the North of England* (1770); and the *Farmer's Tour through the East of England* (1770). To these must be added William Marshall's own descriptive works—the *Rural Economy of Norfolk* (1787); of *Yorkshire* (1788); of *Gloucestershire* (1789); of the *Midland Counties* (1790); of the *West of England* (1796); of the *Southern Counties* (1798). But by far the most satisfactory method of arriving at the extent of land still unenclosed at the beginning of the Hanoverian period would be to work through the *Private Enclosure Acts* and mark all the enclosures on a series of county maps. It has unfortunately been impossible to utilize, for the present chapter, any Acts subsequent to 1770.

Future investigators will probably learn much from a comparison of the English changes of the sixteenth century with those of eastern Germany during the "liberation of the peasants" in the eighteenth and nineteenth. This has been made the subject of a series of important works by Professor Knapp of Strassburg and his pupils (1877 onward), of which some account is given in two reviews by Mr. Keasbey and the present writer in the *Political Science Quarterly* for Dec. 1892.

It must be added that the following chapter is to a large extent identical with a paper read before the British Association in 1890, of which one portion appeared under the title *The Character of Villein Tenure* in the *Annals of the American Academy of Pol. Sc.* for January, 1891; and the other under the title *The Destruction of the Village Community* in the *Economic Review* for July, 1891.]

§ 47. DURING the period of the Tudors, and over a considerable area of England, there took place an agrarian revolution, which altered the whole aspect of country life. This revolution was the substitution of pasturage for tillage,—of pasture with large and enclosed farms for tillage on the old intermixed or open-field system. Its significance we still further appreciate when we notice that, after a time, the new generation of farmers settled down to what is known

as a "convertible husbandry." To devote their lands continuously to sheep-breeding did not turn out quite so profitable as was at first expected; and it was seen to be expedient to plough up the pasture every few years for a harvest or two. Thus what took place at this time in England was only the English phase of the great movement from open-field tillage to enclosed convertible husbandry, which manifested itself during the same or a somewhat later period over a large part of Western Europe.

In its turn the convertible husbandry has since been superseded to a large extent by the system of rotation of crops. The open-field, convertible husbandry, and rotation of crops correspond, indeed, to three great stages in the process of economic evolution.<sup>1</sup> This is a generalization in the field of agrarian history, which can only be compared, for its far-reaching importance, to the similar generalization in the field of industry, which traces its course through the three stages of the guild, the domestic workshop, and the factory. Just, however, as this latter formula does not imply that every manufacture must traverse each of the stages, so in the case of agriculture the generalization only means that it was through these stages that those districts had to pass which showed the way for a general improvement in the methods of tillage. When properly understood, both propositions become useful guides through the mazes of historical detail; both illustrate the character of that particular kind of generalization towards which the historical economist has to feel his way.

It has been recently said by an eminent writer,<sup>2</sup> that while there is plenty of work still to be done on earlier social history, for this middle period, from the fifteenth century onward, little more can be desired. Its main features, we are told, are already quite clear; the materials

necessary for the student's purpose have been printed, and are easily accessible. But as soon as we begin to look more minutely into the accounts of the matter which are to be found in our usual authorities, we discover that this is somewhat too contented a view. For,—to mention but one reason for misgiving,—it may be doubted whether we have yet quite incorporated into our current thoughts the picture of mediæval husbandry which we owe to Mr. Seebohm. Or rather, though we may have grasped the manorial organization of the thirteenth century, when we get to Tudor times we are apt somehow to imagine that we are in the world of to-day. “Farm” and “field” and “tenant” sound as if we knew all about them; the chief difference that occurs to us is that there were a good many more small farmers than there are now; and we make them picturesque by calling them “yeomen.” But when we come to read the documents of the sixteenth century, we hardly get beyond the well-worn quotation about Latimer's father,<sup>2a</sup>—which everybody must be heartily sick of by this time,—without suspecting that familiar terms did not exactly denote then what they denote now. Tedious as it may be, we have to go back to the rudiments,—the manor and its constituent parts: first the land in demesne, cultivated by the lord or his bailiff for the lord's use; then the land in freehold; then, and most important, the land in villenage or “customary” tenure; next, the separate pasture closes; next, the meadows; and lastly, the common pasture and waste. The organization of rural society had become much more complicated since the thirteenth century; the frequent partitions of manors, on the one side, and the occupation of villein or customary holdings by men of position and wealth, on the other, had gone far to destroy the symmetry of the manorial system. Yet modern history is much more mediæval than we



suppose. Our only safe course is to take the normal manor for our guide; and when we are told, for instance, of a case of "enclosure," to ask which of these diverse elements of the manor did it affect, and by what means was it able to affect them. According as we answer these questions must we conceive of the social consequences of the particular change.

§ 48. In the following chapter we shall accordingly take each of the constituent parts of the manor in order, and observe so far as we can the nature and character of the changes introduced in the century following 1450. Such a procedure implies that before that date no vital change had taken place in the organization of the manorial group since those earlier centuries in which we had left it in a previous section (§ 3). This assumption is, however, opposed to a very general opinion, of which Mr. Thorold Rogers was the originator, and it is necessary first to remove this obstacle from our path.

Mr. Rogers' version of English economic history turned upon two fixed points—the Black Death of 1349, and the Peasant Revolt of 1381. England, as we have seen, was then almost exclusively an agricultural country; and the rural population, occupying the estates of the manorial lords among whom the land was divided, fell roughly into three classes: the comparatively small body of free tenants; the far larger classes of villeins or customary tenants, occupying the greater part of the soil; and those labourers who, even if they held a few acres, were more or less dependent upon wages. The position of the villeins is the crucial point in the discussion. It is clear that their condition had been greatly improved during the three centuries which followed the Norman conquest. They had been bound to labour, or find a man to labour, on the lord's demesne, for two or three days every week all the year round: an obligation

which had by this time been almost universally commuted for a fixed money payment at certain intervals. With the money thus received, the manorial lords were able to hire labourers as they were wanted, and only at ploughing and harvest time were the villcins still generally bound to give their assistance for a few days; and even this duty had in many places been commuted for terminal payments. In addition, the lords also received from the customary tenants certain lesser services and dues, which need not be dwelt upon. Now Mr. Rogers shows that the Black Death led to the labourers' demanding wages fifty per cent. higher than had before been customary, and that, in spite of the numerous Statutes of Labourers, they succeeded in getting them. The result, in his opinion, was that the lords of manors, finding that the "rents" of the villeintenant no longer enabled them to purchase the same quantity of labour, tried to restore the state of things which existed before services had been generally commuted. They attempted, that is to say, to force the customary tenants, now becoming comfortable copyholders, into the humiliating position of their ancestors a century and a half before. The result was a just rebellion.<sup>3</sup>

Although this explanation of the Peasant Rising is now so generally accepted as to pass for undoubted fact, no evidence has yet been adduced that can be regarded as confirming it; and the events of 1381 can be understood without it. We may grant that, now that labour had become so costly, the lords would insist on the exact performance of such labour dues as had not yet been commuted, and on the punctual payment of all money rents. There is much reason to believe, moreover, that they abused their power of imposing "amercelements" on their tenants in the manor courts for trivial breaches of duty. Thus the fourteenth-century

moralist in *Piers Plowman* says, addressing the gentry, "When ye amercyn any man, let mercy be taxour;"<sup>4</sup> and Wyclif complains in one of his sermons that "lords many times do wrongs to poor men by unreasonable mercymments."<sup>5</sup> Certain burdens, also, weighed upon the villeins which were regarded as peculiarly humiliating and characteristic of servitude, of which the most important was the obligation of paying a fine when a daughter was given in marriage. With the teaching of Wyclif in the air, it was natural enough that the villeins should become restive. Men were found to tell them that as, according to the teaching of Wyclif, it was lawful to withdraw tithes from priests who lived in sin, so "servants and tenants might withdraw their services and rents from their lords that live openly a cursed life."<sup>6</sup> Villeins in various parts began to "withdraw their services and customs," referring to "pretended exemplifications of Domesday" for their justification.<sup>7</sup> Human nature being what it is, the lords resisted the movement, and then the rising took place. The revolted villeins without question demanded freedom,—liberation from "servitude and service;" that is to say, they asked that they might hold their land on a free tenure. What that meant varied from place to place; as is clear on comparing with one another the charters of manumission actually granted in their terror by the monks of St. Albans to their various manors,<sup>8</sup> where the boldest demand on the part of the tenants was that they might have their lands "free, in such a way that they might sell them." In the minds of the mass of the rebels, some very positive minor grievances were probably associated with vague and lofty notions of liberty; and when they came to draw up a list of demands, the most definite article in it was that no man should in future be bound to pay a higher rent than fourpence for each acre of land. In spite of what Mr.

Rogers says as to the real success of the movement, the burdens against which they revolted only very gradually disappeared; and their final modification into the innocuous curiosities of copyhold was the result of the transition from arable to pasture during the next two centuries.

§ 49. Returning now to the fifteenth century, let us look first at the changes on the manorial *demesnes*. The substitution of pasture for tillage on the demesne,—which usually formed from one-third to a half of the whole arable area of a manor,—must have had the gravest social consequences. For since the labour services of the customary tenants had been commuted for money payments,—and by this time such was almost universally the practice, even in the case of the additional labour needed for mowing and reaping,—the tillage of the demesne had furnished employment to a considerable number of small tenants and landless cottagers. We are not to conceive of these labourers as a body of men in regular employment at fixed wages: the number of permanent labourers on the demesne seems to have been but small. But during the busy seasons of the year a score or two of men and women would be engaged; and the wages then earned would be an important addition to the produce which they obtained from their small plots, and from their rights of common. The result of the withdrawal of this employment might at first be but a slight addition to the hardships of the cotters' lot. For a time they would struggle on where they were; but after a while they would be forced to leave the place and seek work elsewhere. Such would seem to be the meaning of the complaints that "good houses" are no longer kept up.<sup>9</sup> Many of those landlords who had kept their demesnes in their own hands were changing their system of managing them: many who had been wont to let them for terms of years to "*firmarii*" (*fermors*, *farmers*<sup>10</sup>)

were taking them back into their own hands to try themselves the experiment of sheep-raising; or they were taking the opportunity of the greater chance now presented of making money by land and of the consequent greater demand for "firms" to make better terms on the renewal of the lease.<sup>11</sup> And if the lords were doing this, still more were the "firmars" bent upon making the best they could of their bargain, so that they were frequently regarded as chiefly responsible for "laying ground to pasture."<sup>12</sup>

It was in the management of their demesnes that the lords of manors were least hampered. They might fairly think that if any part of their estates was theirs to do as they pleased with, it was the demesne lands. This feeling was, no doubt, general; for in all the various efforts of the governments of Henry VII., Henry VIII., and Edward VI. to deal with agrarian difficulties, almost the only attempt to restrict the owners of lay lands in the use of their demesnes was that implied in the enactment—limited in its scope to the Isle of Wight—that more than one farm should not be held by one person.<sup>13</sup> John Hales, the most energetic of the commissioners appointed to redress enclosures in 1549, expressly declared in one of his "charges" that "this word 'enclosures' is not taken where a man doth enclose and hedge in his own proper ground where no man hath commons."<sup>14</sup> And although in 1534 the legislature did impose a new restriction in the enactment that no man should keep more than two thousand sheep,<sup>15</sup> it was easy to avoid this limitation, as Hales tells us, by "fathering them on their children, kinsfolk, and servants."<sup>16</sup>

In regard to Church lands the government might take a bolder course. When grants of Church lands were made to laymen, the condition might fairly be attached to them that they should not be managed in such a way as to increase the

social disorders which the government already found it hard enough to cope with. It was accordingly enacted, by the last clause but one of the great act of secularization in 1536, that the new grantees "shall be bounden by authority of this Act . . . to keep or cause to be kept an honest continual house and household . . . and to occupy yearly as much of the same demesnes in plowing and tillage of husbandry . . . as hath been commonly used."<sup>17</sup> But considering that the enforcement of the act was put into the hands of the Justices of the Peace,—members of the very class which needed most to be watched,—it is probable that the statute remained a dead letter.<sup>18</sup>

There is one further consideration which must not be entirely disregarded. In many instances the demesne consisted, in part, of acres intermixed with those of the tenants in the common fields.<sup>19</sup> If the lord of such a manor enclosed his acres in the common field, he would disturb the symmetry of the three-field tillage, and thereby hasten its dissolution. It is true that under the later law of common, he would by such measures have given the tenants ground of action against him for diminishing their pasture on fallow and stubble. Fitzherbert, in his *Book of Surveying*, written in 1523, expressly says that if the demesne lands "lye by great flattes or furlongs in the common feldes it is at the lordes pleasure to enelose them,"<sup>20</sup> and this may be interpreted as implying that in the opinion of the writer, a Justice of the Common Pleas, it was not at the lord's pleasure to enclose when the lands lay in acre strips. But even if this were the legal theory of the time, it probably was not very difficult for the lords to bully their tenants into acquiescence in any case. How far this is an important consideration, can only be determined when we know to what extent demesnes did still lie in the common fields

The impression produced by our present evidence is that during the preceding two or three centuries they had been pretty generally withdrawn from the common agriculture of the village community.<sup>21</sup>

Secondly, as to *lands in freehold*. Here, also, there would probably be little difficulty in enclosing, though in this case it would be the tenant and not the lord who would have the opportunity. Whatever may have been the case with the demesnes, it is certain that the arable lands of free tenants lay very generally intermixed with those in villenage.<sup>22</sup> The process of consolidating the acre and half-acre strips into larger holdings had already gone some way: and where a man held as much as three or four acres or more in one piece, it would often be for his interest to enclose.<sup>23</sup> By this, or by similar action on the part of the lord, the working of the open-field system would be hampered, and the rights of commonage on fallow and stubble would be diminished.

Of the *common meadows*, it is difficult to speak with any precision: they would be involved in the fate of the customary tenants, which will be referred to later. With regard to the *common pasture and waste*,—the “commons,” in the narrower sense of the word which was already beginning to be usual,—we have abundant evidence. It is quite clear that the enclosure for the use of the lord of parts of the common pasture, or, what comes to the same thing, its monopolization in part or as a whole by the lord’s flocks, took place very generally, and furnished one of the main causes, if not the main cause, of popular discontent.<sup>24</sup>

The view we shall take of this part of the evolution of proprietary rights will depend upon the view we take of the origin of the rights of commonage. If, with Sir Henry Maine,<sup>25</sup> we regard them as survivals from a period when a free community owned the whole land of the settlement,



we shall regard the appearance of the legal theory that the commons were the lord's property, subject only to certain rights of user, and then the disappearance of these rights of user themselves, as successive stages in the substitution of private for communal property. If, on the other hand, with M. Fustel de Coulanges,<sup>26</sup> we regard the lord of the manor as representing an original proprietor, who at some time in the past actually granted tenements to the predecessors of the present customary holders, the whole development will appear to us in a different light. The right of common will then seem to be historically what certainly in the later Middle Ages it was legally, *i.e.* a custom which the lords had permitted to grow up—not, of course, out of philanthropy, but because it suited existing methods of cultivation; a custom which was tending to harden into a legal claim, and had to some extent done so, when the economic situation altered and caused the lords to fall back on their original rights.

We need not, however, come to any very positive decision between these contending positions, before recognizing that the position of legal theory in the time of the early Tudors greatly facilitated the enclosure of commons. The foundation of such law as existed on the subject was the Statute of Merton of 1235, which had laid down that lords might “make their profit” of their “wastes, woods, and pastures,” in spite of the complaints of “knights and freeholders” whom they had “infeoffed of small tenements in their manors,” so long as these feoffees had “sufficient pasture so much as belongeth to their tenements.”<sup>27</sup> This statute clearly refers only to free tenants, and therefore gives us no sure ground as to the rights of villein or customary tenants; though it would seem to have been generally interpreted in later centuries as securing sufficient pasture

even to customary tenants.<sup>28</sup> But even then there were great difficulties, arising from what as late as 1523 Fitzherbert calls "the none certentie . . . what is sufficyent common."<sup>29</sup> Fitzherbert can only suggest the rule that a tenant should have common enough in summer to support those cattle for whom he could provide hay and straw from his own holding for the winter. But this he gives only as his own personal opinion: "Me semeth by reason should be such." In any case, however, the burden of proof lay upon the tenant: he had to show that he could no longer find sufficient pasture. And it is obvious that this would mean that in most cases, where the waste was extensive, the lord would have a comparatively free hand. Accordingly, by the time of Fitzherbert, we are told that "the lordes have enclosed a great parte of their waste groundes, and streytened their tenauntes of their commyns therein, and also have gyven lycence to dyuers of their tenauntes to . . . take in new intackes, or closes out of the commens, payeng to their lordes more rent therfore, so that the commen pastures waxen lasse."<sup>30</sup>

§ 50. We now come to what is perhaps the most interesting part of the subject,—the *customary* tenements. It has already been explained (§ 1) that the villein or customary holdings did not lie in continuous stretches, in considerable pieces, such as we *now* call "fields," grouped round farmhouses; they were composed of a number of acre or half-acre strips, scattered over the two or three enormous areas, each some hundreds of acres in size, then known as "the fields." In earlier times no villein had more than from twenty to fifty (usually thirty) of these acres; and no two strips held by one man were contiguous: and, although a good deal of consolidation had since taken place, the customary holdings were still as a rule small, and held in scat-

tered pieces. But if sheep-farming was to be introduced instead of tillage, it would in many manors be absolutely necessary that the great stretches of "fields" should be, partially at least, hedged or fenced in; and the open acres of corn, oats, or fallow, superseded by pasture. And this did actually take place to a very considerable extent. But here a distinction has to be drawn. In the period from the accession of Elizabeth to the end of the sixteenth century,—when the agrarian revolution stopped for a time, to be renewed a hundred and fifty years later,—enclosures would seem to have been usually effected with the consent of all the land-holders concerned. The result, so far as regards the main body of customary tenants, was only that they now obtained, instead of some thirty scattered strips, which they had been obliged to cultivate in a particular way, four or five fields of six or seven acres each, which they were free henceforward to employ as they pleased. The class most hurtfully affected were the cottagers, whose chances of employment were greatly diminished by the substitution of pasture for arable farming, and who lost the rights which custom had usually given them to a modest share in the use of the common pasture. But in the earlier part of the same movement, during the period which may be roughly defined as from 1450 to 1550, enclosure meant to a large extent the actual dispossession of the customary tenants by their manorial lords. This took place either in the form of the violent ousting of the sitting tenant, or of a refusal on the death of one tenant to admit the son who in earlier centuries would have been treated as his natural successor. Proofs abound: there is, for instance, the well-known passage in More's *Utopia*: "That on covetous and unsatiable cormoraunte . . . maye compasse aboute and inclose many thousand akers of grounde together with one

pale or hedge, *the husbandmen be thrust owte of their owne*, or els either by coueyne and fraude, or by violent oppression they be put besydes it, or by wrongs and iniuries they be so weried that they be compelled to sell all.”<sup>81</sup>

But here two questions present themselves. What was the contemporary legal theory as to the position of the majority of customary tenants? and what was the practical effect of the theory? It is usually held that, whatever may have been the original insecurity of the villcin's position, his successor had by this time arrived at a security of tenure guaranteed by law; so that when a lord ousted a customary tenant, he knew he was violating the law, and trusted to the man's ignorance, or poverty, or fear, to escape its enforcement. It is sometimes granted that the law may not have been quite clear, but it is implied that, even if this were the case, the lords did not know it. Both positions seem questionable, especially the first. No doubt the dispossession of the tenants was regarded by the tenants themselves and by most observers as a violation of customary right; no doubt also many tenants were evicted by the strong hand, the terms of whose tenure were such that they could have maintained themselves had they been able to go to law. But there is much reason to believe, as will now be shown, that, so far as the mass of customary tenants were concerned, they had, at the beginning of the period, *no legal security*; that the lords knew this and acted upon it; and that the government knew it and was influenced by it. It follows from this that the law as we find it towards the end of the period in Coke, which does give the customary tenant a security of tenure, must be regarded as itself the product of the *Sturm und Drang* of the preceding century and a half.

There was a time, we can hardly doubt, when the great body of villeins all over the Midland and Southern counties<sup>82</sup>

held their lands on much the same terms, whatever these may have been. But with the growth of royal courts of justice, and of a body of professional lawyers, distinctions came to be drawn between the tenure of this or that villein, this or that district. All their holdings were still nominally "at the will of the lord," "*ad voluntatem domini*,"—a phrase which must surely have meant what it says at some time.<sup>83</sup> But some were now expressly "for life," "*ad vitam*;" while other customary tenants, still more fortunate, held "to themselves and their heirs."<sup>84</sup> The very use of the term "for life" implies an understanding that when the life expired the lord could do with the land as he pleased. It may have been usual to put in the son or other heir of the previous tenant; but the lord was under no legal obligation to do so; and as soon as the point was raised, in 1607, the judges held that an alleged custom to compel the lord to admit in such cases was void.<sup>85</sup> On the other hand, where a grant had been made to a man and his heirs, if the lord refused seisin to the heir he could hardly fail to know that he was doing what was illegal.

Most customary tenants, however, were probably still admitted to the occupation of land without any such specification as to the duration of their tenancy. If, under such circumstances, the lord determined to take the land back again into his own hands, it looks as if the law as it stood in 1450 would be upon his side. The two cases of dispossession of a sitting tenant and of refusal to admit the son or other heir of a previous tenant are, of course, distinct, and need separate examination. But the violation of general sentiment would be much the same in either case; the lord's power, in either case, was also probably much the same; and our evidence includes both: so that for the present they may be taken together.

For our first piece of evidence we must go some way back, but it is worth paying some attention to. It is an account of the politic action of a certain Abbot of Abingdon, at the end of the eleventh century. We are told by the chronicler that "on the estates of the monastery it was held to be the law that one tenant could get the consent of the reeve by a bribe, and expel another from his house; and that, when a tenant died who had held a fertile piece of land, a man might, by means of a bribe, get himself admitted, without any compensation being given to the wife or sons of the late tenant."<sup>86</sup> As the abbot wanted money for his buildings, he arranged with the tenants that these grievances should be removed in return for certain payments. It does not seem likely that such a condition of things as the chronicler describes would be found only on the manors of one particular monastery; and if we suppose that it existed in other parts of the country, it is fair to conjecture that it would be long before it disappeared.

When we get down to the period of text-books, we find Glanvill, at the end of the next century, describing the villein as absolutely devoid of all rights of property. Even if we suppose his doctrine of villeinage to have received its colour from Roman law, and to have been in some measure irrelevant to the actual life of the time, it cannot have been without influence on the mind of lawyers as soon as questions of villein tenure came before the courts.<sup>87</sup> Such a case is presented to us in 1280. In that year the Abbot of Burton, annoyed by some proceedings which his villeins of Mickleover had ventured to bring against him in the royal courts, proceeded to evict them all, and to seize their cattle. The sheriff sent a writ for the restoration of the cattle, but it was never obeyed; and when some of the tenants brought an action for theft, the abbot boldly answered that, being

villeins, nothing was their own but their bellies; and they could get no remedy. Apparently it never occurred to the sheriff to order the restoration of their tenements; and although they were finally reinstated on paying heavy fines and acknowledging themselves to be "serfs at the will of their lord," it was of the abbot's free grace,—because, in fact, he wanted his lands cultivated, and knew no other way to secure that end.<sup>33</sup>

Some ten years after the date of these proceedings, the text-book known by the name of Britton was compiled; and it speedily became the most widely used of legal authorities.<sup>39</sup> In this work a distinction is drawn between villeins on the ancient estates of the crown, and villeins on the estates of the lords. The former, it tells us, "are privileged in this manner, that they are not to be ousted from such tenements so long as they perform the services which appertain to their tenements." But with the latter "villénage is a tenement . . . delivered to be held at the will of the lord by villein services;" and to make it clear that "at the will of the lord" is no empty phrase, he returns to the villeins on royal demesne, and adds, "And even in the manors of the ancient demesnes there are pure villeins both by blood and tenure, who may be ousted from their tenements and deprived of their chattels at the will of the lord."<sup>40</sup>

With the next century the position is changed by the oft-recurring plague. Instead of ousting tenants, lords of land found it hard enough to retain them even with lightened services. We can readily understand that during such a period the custom of tenant-right would tend to become law; and we might anticipate that when the question came to be raised once more, under the Lancastrian and Yorkist kings, the attitude of lawyers would be different. According to we find Littleton, who writes in 1475, expressing himself as



follows: "Although that some such tenants have an inheritance according to the custom of the manor, yet they have but an estate but at the will of the lord, according to the course of common law. For it is said that if the lord do oust them, they have no other remedy but to sue to their lord by petition. . . . *But the lord cannot break the custom which is reasonable in these cases.*" This was the unsatisfactory position in which the law was left in a text-book of great repute, which was speedily printed and passed through several editions: a vague declaration that the lord must not break a reasonable custom, with no explanation what "reasonable" meant, or how the restriction was to be enforced.

In the text of Littleton, as commented upon by Coke, appears, indeed, the following addition, which has become a *locus classicus*: "But Brian, chief justice, said that his opinion hath always been, and ever shall be, that if such tenant by custom paying his services be ejected by the lord, he shall have an action of trespass against him, H. 21 Ed. IV. And so was the opinion of Danby, chief justice, in 7 Ed. IV. For he saith that tenant by the custom is as well inheritor to have his land according to the custom, as he which hath a freehold at the common law." But it is significant that this passage does not appear either in an edition of Littleton printed about the year of his death, or in the issues of Pynson in 1516 and 1525. It occurs for the first time in the edition of Redmayne, in 1530.<sup>41</sup> What this would seem to indicate is that the point of law was even in 1530 not yet absolutely determined. We may fairly conjecture that the editor of that year shared in the general indignation which the evictions excited, and that he disinterred a couple of forgotten dicta half a century old, and gave them a place in what had become an established text-book. It does *not* follow from their appearing where they

are that during all that half-century these dicta had been well-settled law. The very form of Brian's opinion,—which, it will be noticed, is ascribed to as late a date as 1482, and concerns what we should regard as the most extreme display of arbitrary power, the ejectment of an actual tenant,—marks it as personal and as consciously opposed to a general belief: "his opinion hath always been and *ever shall be*." <sup>42</sup>

Some light may be thrown on these utterances of Yorkist judges by a consideration of the position of the Yorkist government. The Lancastrian rule had received the support of the landed gentry; the Yorkists were the party of the towns and of the lower classes. When we find that the precisely similar eviction of peasants which went on in many parts of Germany in the sixteenth century was only prevented from running its full course because the princes, for their own interests, interfered to hinder it,<sup>43</sup> it does not seem extravagant to ascribe to the Yorkist government, and to the judges as part of it, a desire to modify the law in such a way as to increase their own popularity, and weaken their enemies, the squirearchy. How far they succeeded is an altogether different matter.

That the Yorkist judgments did but little to stem the current of change is manifest from what took place in later reigns. Among the most detailed pieces of information which we possess is a return made in 1517 by the Commissioners of Inquest appointed in that year.<sup>44</sup> Many of the entries simply run as follows: "That A. B. knight (*or gentleman, or clerk*) has enclosed and put in pasture so many acres in the vill (*or township*) of C., which were under tillage during the period of the commission." We are told nothing as to the tenure of the land in question. But it is observable that the areas are generally either thirty acres or fractions or multiples of thirty; so that they probably repre-

sent wholes or portions of virgates—the ordinary *customary* holdings.<sup>45</sup> Another series of entries run: “A. B. has in the vill of C. a tenement with so many acres (*e.g.*, 20, 25, 37, 40) of land, which were in tillage since the time of the commission; and now that tenement is fallen, and the land is turned to pasture.” More interesting still, in one or two cases we get glimpses of wholesale evictions. Thus “within the vill of Choyssell the houses aforetime of John Willyers are laid waste, and the inhabitants have departed; and there pertain to the said houses 300 acres of land, whereof 30 are (now ?) arable, and the rest are in pasture. And the houses of Burton Lazars in the same vill are laid waste, and the inhabitants have departed; and there belong to the same houses 300 acres of land, whereof 40 are (still ?) ploughed, but the rest are in pasture: and by this downfall the church has fallen into ruins.”<sup>46</sup>

Instances of this kind show us that the language of the statutes concerning “the pulling down and destruction of *towns*,” so that where once two hundred persons had been employed, there were now but two or three herdsmen,<sup>47</sup> is no exaggeration, but a sober description of what had really taken place. And yet the acts never imply that these evictions were in violation of the rights of the tenants. They lay down that “houses of husbandry” ought to be maintained, on the ground that it is desirable that men should find employment; but they never provide means by which the customary tenants could enforce their legal rights, if they had any. The natural explanation would seem to be that they had none.

Of late years our conceptions of mediæval history have been unduly coloured by a theory which, as we are now finding, has yet to be proved—the theory, namely, that the powers of lords of manors are so many encroachments which

have only acquired a legal authority during the last five or six centuries. The proposition seems far more tenable that, during historical times and until comparatively modern days, the cultivators of the soil were always in a condition of dependence, and held their lands at the arbitrary will of their lords. For centuries the lord knew no other way of getting his land cultivated, and had no wish to get rid of a tenant; whenever he did so, it was altogether exceptional. But with the tendency to limitation and definition so characteristic of the feudal period, custom tended to harden into law; and it would seem to have been on the point of becoming law when a change in the economic situation,—the increasing advantage of pasture over tillage,—prompted the lords to fall back on their old rights. Then followed a struggle between *a legal theory becoming obsolete*, but backed by the influence of the landowners, and *a custom on its way to become law*, backed by public sentiment and by the policy of the government.

Much the same tendencies were at work in other countries, especially in Germany. But there the sixteenth century also witnessed a wide extension of the influence of Roman law. The Roman law, with its sharply defined conception of property, came to the aid of the lords;<sup>47a</sup> and this additional weight was just sufficient in many districts to turn the balance. Thus, the Bavarian code of 1518 laid down that the peasant had no hereditary right to his holding, and not even a life interest unless he could show some documentary evidence.<sup>48</sup> In Mecklenburg a decree of 1606 declared that the peasants were not *emphyteutae* but *coloni*, whom their lords could compel to give up the lands allotted to them, and who could claim no right of inheritance even when their ancestors had held the land from time immemorial.<sup>49</sup> In Holstein, again, a great number of the

peasants were expelled from their holdings, and such as remained became tenants at will.<sup>50</sup> In England, on the contrary, custom and public sentiment and royal policy had no such counteracting influence to contend with; and the outcome of the contest was the law as we find it in the seventeenth century. In many of Coke's phrases we can discern how recent and how severe the struggle had been.<sup>51</sup>

There is one further remark that it may be well to make. The Commission of Enquiry issued by Somerset has too long been treated as standing altogether by itself; and Somerset's conduct in the matter has in consequence been placed in a not altogether true light. We have seen that there is some reason for believing that the Yorkists were inclined from policy to befriend the peasants. Now the Tudor government in many most important respects did but continue the Yorkist tradition. Thus the most strongly worded of all the statutes ordering the maintenance of houses of husbandry was that of 1489. And even if we could doubt whether the government of Henry VII. was in earnest with its efforts, we can have no doubt with regard to the government in the early years of Henry VIII. Not only was there an act passed in 1515 repeating the provisions of that of 1485, but Commissions were also appointed in May, 1517, to make an inquiry in the several counties.<sup>52</sup> This, it may be noticed, was but a few months after the publication of the *Utopia*, and More and his circle were then in high favour at court. The returns of evidence which still exist have already been mentioned. And it seems clear from a decree in Chancery by Cardinal Wolsey, dated in July, 1518,—by which all who had “pleaded the King's pardon or submitted to his mercy for enclosures” were directed to pull down all enclosures within forty days which had been made since 1 Hen. VII.,<sup>53</sup>—that the action of the government had struck terror right and

left among the landlords. From this time the idea of a royal commission was never absent from the minds of politicians. It was recommended in an anonymous memoir<sup>54</sup> to the Vicegerent Cromwell; and in a poem dedicated to Somerset, apparently before his commission was actually appointed, it was even proposed that the commissioners should have power to fix judicial rents.<sup>55</sup> Somerset's measures were only unwise in the sense that he underestimated the forces opposed to him, and thus precipitated his own downfall. They were an honest attempt to carry out the traditional policy of the government, and we need not hastily jump at the conclusion that they were altogether in vain.<sup>56</sup>

§ 51. There are two other matters to which we must refer as contributing in some degree to explain the partial removal of the customary tenants from the land. The first is the history of *fines* upon admittance. The fine,—a payment made by the incoming tenant to the lord,—points, just as plainly as the *relief* does in the case of the tenant in chivalry, to the fact that the holding was at first not hereditary. Now, if there was uncertainty about the heritability of a customary tenement, still more must there have been uncertainty as to the amount which a lord had a right to exact by way of fine. There was a general feeling that fines should be reasonable; but as late as the thirty-sixth year of Elizabeth it was held by the King's Bench that after the demand of a fine by the lord, and the refusal of the tenant to pay, though the fine might be unreasonable, the estate would be forfeited. It is true that a term or two afterwards the Court of Common Pleas gave a diametrically opposite opinion; and in the forty-third of Elizabeth the King's Bench came over to its opinion, although, as Lord Loughborough said, in reviewing the history of these cases, "from the manner in which the report is stated and the anxiety with

which the judges support the proposition, one would be apt to conclude it had not been of great antiquity." It was not till some way into the next century that two years' value was settled as the limit of reason.<sup>57</sup> And there is superabundant proof that the lords made free use of their power, and that by demanding impossible fines they were able to take into their own hands many a tenement, even where they had been granted to men "and their heirs."<sup>58</sup>

The other point is that the disappearance of the small customary holdings was also facilitated by the substitution, both voluntarily and under compulsion, of leases for copyhold.<sup>58a</sup> The whole question of the relation of leases, both for lives and for terms of years, to copyholds requires investigation: the leases for three lives renewable on paying a fine, or with power to substitute fresh lives,<sup>59</sup> which were so prevalent, especially in the western counties, until recent times, are not impossibility survivals from the changes of this period. But in many cases a lease was but a stepping-stone to tenure at will. Thus Fitzherbert, in the last chapter of his book *On Surveying*, advises the lord to give leases on good terms to such of his tenants as would consent to carry out enclosures. "Lette every lorde by his copy of court role or by indenture to make a sufficient lease to every of their tenaunts, to have to hym and to his wife and to his children, so that it passe nat three lives, than being alyve and named." The lords can do no less "remembering what profytes they may have at the end of their termes; they knowe nat howe soone. For undouted on sette day cometh at last, and though the aduantage of the lordes come nat anone, it will come at length."<sup>60</sup> But it would not come quick enough for many of the new lords of the monastery lands; and we meet with complaints that they tried to bully the tenants



into giving up their copies in exchange for leases for twenty-one years. "They make us believe that by the virtue of your Highness' sale all our former writings are void and of none effect, and that if we will not take new leases of them, we must then forthwith avoid the grounds;" and again, "making us believe . . . that our copies are void . . . they compel us to surrender all our former writings, whereby we ought to hold some for two and some for three lives, and to take by indenture for 21 years."<sup>61</sup> And the legal position of leaseholders was so uncertain, that down to 1529, persons who had made leases of their lands either without writings or even with indenture had been able by the process of recovery to get judicial judgments, by which they could "put the said Termors from their terms" and "expell" them contrary even to their express covenants. It was not until that year that a statute was passed giving to the leaseholders a legal security which it would appear they had never had before.<sup>62</sup>

§ 52. Of all forms of enclosure, it was the enclosure of the common fields which most vitally affected the mediæval village economy. The scattered holdings with their intermixed strips, distributed over fields subject to a common rotation of crops, tended, more than any other characteristic of mediæval husbandry, to preserve old methods of cultivation, old habits of thought, and old class relations.<sup>63</sup> If we conceive of economic history as concerned, not only with the production of wealth, but also with the evolution of social organization, we must recognize that the disappearance of the common fields is one of the central problems with which it has to deal.

The transition to modern conditions occupied well-nigh four centuries; but it did not proceed with equal rapidity during the whole of that time, nor did it at any period affect

all parts of England equally. There were two periods of rapid change,—of change so precipitate that it may well be called revolution,—namely, from c. 1470<sup>64</sup> to c. 1530, and again from 1760 to 1830. After about 1530 the movement somewhat slackened,<sup>65</sup> though enclosures were still frequent throughout the sixteenth century. Speaking generally, we may say that the common fields had been undisturbed for a century and a half, when, about the time of the accession of George III., the fresh wave of agricultural innovation set in.<sup>66</sup> It must be added that the immediate object of the later enclosures was altogether different from that of the earlier. In the eighteenth century the object was to introduce a better system of arable cultivation; in the sixteenth it was to substitute for arable the more profitable pasture. It may be roughly estimated that, when the movement began again under the Hanoverian kings, about one-third of the work still remained to be done.<sup>67</sup>

It will be interesting, and probably useful for the light it will throw on other portions of English social history, to define more precisely the area over which the changes took place, and the amount of change in each district during the fifteenth and sixteenth centuries. The period may be defined more definitely as that lying between 1470 and 1600;<sup>67a</sup> with the understanding that during the first sixty years, 1470–1530, the transformation was far more violent and hasty than afterwards, and also that the process of innovation did not entirely cease till after the Restoration. It must be noticed also that we are here considering only the enclosure of open fields.

The conclusions to which the evidence leads us may be summed up as follows:—

(1) The following counties were *entirely, or almost entirely, enclosed*: Suffolk,<sup>68</sup> Essex (except the southern part

adjoining Middlesex),<sup>69</sup> Kent,<sup>70</sup> two-thirds of Hertfordshire (*i.e.* excluding the northern portion),<sup>71</sup> rather more than a third of Warwickshire on its western side,<sup>72</sup> two-thirds of Worcestershire (*i.e.* excluding its south-eastern corner),<sup>73</sup> and Durham after the Restoration.<sup>74</sup>

(2) The following counties were *to a large extent enclosed*: Northamptonshire,<sup>75</sup> Shropshire,<sup>76</sup> the southern half of Leicestershire,<sup>77</sup> the eastern side of Norfolk,<sup>78</sup> and probably the Isle of Wight.<sup>79</sup>

(3) The following were dotted *with sporadic enclosures*: the greater part of Norfolk (excluding the eastern side),<sup>80</sup> and probably the southern portion of Bedfordshire (adjoining the enclosed parts of Hertfordshire),<sup>81</sup> and the northern part of Wiltshire.<sup>82</sup>

(4) The following were *scarcely, if at all, disturbed*: most of the other counties, and portions of counties; and certainly Yorkshire,<sup>83</sup> Lincolnshire,<sup>84</sup> Nottinghamshire,<sup>85</sup> Derbyshire,<sup>86</sup> Huntingdonshire,<sup>87</sup> Cambridgeshire,<sup>88</sup> the greater part of Bedfordshire,<sup>89</sup> Buckinghamshire,<sup>90</sup> Middlesex,<sup>91</sup> Oxfordshire, Berkshire,<sup>92</sup> the southern part of Wiltshire,<sup>93</sup> Gloucestershire,<sup>94</sup> and Herefordshire.<sup>95</sup> The case of Oxfordshire is an interesting one, since it illustrates the need of caution in accepting the loose statements of sixteenth-century writers. A pamphlet, dating probably from about 1550, which is frequently quoted by modern writers, complains especially of the enclosures in the three counties of Oxford, Buckingham, and Northampton. The writer calculates that in Oxfordshire alone forty ploughs had been rendered idle since the accession of Henry VII., and that thus two hundred and sixty persons had been deprived of employment. In another passage he reckons that eighty ploughs had been disused in each of these shires.<sup>96</sup> We have seen that for Northamptonshire he had some justification; but it is certain that in Oxfordshire no

considerable enclosures took place. In 1809 almost half the parishes were still unenclosed; although, as Arthur Young tells us, more land had then been enclosed in that shire, in proportion to its extent, since first he travelled in it forty years before, than in any other county in England.<sup>97</sup>

(5) About the following counties there is insufficient information: Surrey, Sussex, Hampshire, Dorset, Somerset, Stafford, Cheshire, Lancashire, Westmoreland, and Cumberland. For Wales and for Devonshire and Cornwall it would probably be misleading to pronounce any brief judgment; for although such arable land as they possessed was undoubtedly tilled on an open-field plan, it is certain that in Wales,<sup>98</sup> and it is probable that in the western peninsula,<sup>9</sup> the agrarian system was very different from that which prevailed in England.

## NOTES.

1. See, for a short statement of this development, Roscher, *National-ökonomik des Ackerbaues*, bk. ii. ch. ii. The probable earlier stage, where the arable area was shifted from time to time, may be omitted for our present purpose.

2. Sir Frederick Pollock, in a paper on *Early Landholding*, in *Macmillan's Magazine* for April, 1890.

2a. "My father was a yeoman and had no lands of his own, only he had a farm of three or four pound by year at the uttermost, and hereupon he tilled so much as kept half a dozen men. He had walk for a hundred sheep, and my mother milked thirty kine. He was able and did find the king a harness, with himself and his horse, while he came to the place that he should receive the king's wages. . . . He kept me to school. . . . He married my sisters with five pound or twenty nobles apiece. . . . He kept hospitality for his poor neighbours, and some alms he gave to the poor. And all this he did off the said farm, where he that now hath it payeth sixteen pounds by year or more, and is not able to do anything for his prince, for himself, nor for his children, or give a cup of drink to the poor."—*First Sermon before Edward VI.*

3. In the first volume (81-83) of the *History of Agriculture* (1866) this explanation was put forward as a bold surmise: "I am compelled to state what I feel convinced was the fact in the form of a hypothesis. But I cannot account for the outbreak on any other ground than that of an attempt on the part of the customary tenants to vindicate their right to pecuniary commutation against a threatened invasion of the custom." Eighteen years later, in *Work and Wages*, the hypothesis had become an absolute fact. The manorial lords, we are told (253), "certainly strove to reverse the bargain which they had made with their serfs and had engrossed on their rolls, determining to reduce them to villenage again, or at least to exact the old labour dues." Four years later, in the *Economic Interpretation* (29, 30), Mr. Rogers refers with pride to the fact that "the ordinary history-books . . . of modern date have accepted in silence the *proof* which I published more than twenty years ago as to the causes and consequences of the insurrection." Mr. William Morris has actually based on Mr. Rogers' assertion his prose poem *A Dream of John Ball* (1888), and calls upon us to be indignant with "the lords that would turn their tenants all into villeins again as their grandfathers had been" (13, 39).

4. Passus ix. [Text C.], l. 37; ed Skcat, i. 197.

5. *English Works of Wyclif* (Early English Text Soc., 1880), 233.

6. *Ib.*, 229. Wyclif defends his "poor priests" from the charge of having spread such a doctrine.

7. Preamble to the statute, 1 Rich. II., c. 6; *St.*, ii. 2.

8. *Gesta Abbatum S. Albani* (Rolls' Series), iii. 324-326.

9. Thus Becon, *Policy of War, Works* (Parker Soc.), i. 253: "How do many gentlemen not only get into their hands other men's lands and tenements, that they may live like lords alone in a town, and yet keeping slender houses, and hungry hospitality." And Thomas Lever, *Sermon before the King* (1550): "I do not prayse those men which brybe and polle all the yeare to kepe riot in their houses for a fortnight, a moneth, or a quarter of a yeare: But those I se be loued trusted and obeyed, that accordynge to their habillite, keepe good houses continually."—Arber's Reprint, 88. And cf. n. 12, *infra*.

10. It seems clear that the term "farmers," as used of agriculturists, was first applied to men who took the demesnes (sometimes with the manorial rights over the tenants also, on which see later) for a certain number of years, contracting to pay annually a regular fixed sum (or *firma*). This began to be a frequent practice from the early years of the fifteenth century; see Stubbs, *Const. Hist.*, iii. 552. It was probably during the middle portion of the sixteenth century that the term came to have its present meaning.

11. The strength of this new demand for land is shown by the frequency with which reversions of farms were bought. Thus Crowley in his *Epigrams* (1550)—

"Reversions of fermes are bought  
Long ere they fall;"

and again—

"Reversions of fermes  
Are bought on each side."

The capital now turned in the direction of land was largely capital made in commerce. Thus Crowley, *ib.*—

"If merchants would meddle  
With merchandise only,  
And leave fermes to such men  
As must live thereby," etc.,

in *Select Works of Rob. Crowley* (E.E.T.S., 1872), pp. 33, 41. Of also Lever, *Sermon in the Shroudes in Poules* (1550): "Look at the merchauntes of London, and ye shall se, when as by their honest vocacion

... god hath endowed them with great abundaunce of ryches, then can they not be content . . . but their riches muste abrode in the countrey to bie fermes out of the handes of worshipfull gentlemen, honeste yeomen, and pore laborynge husbandes."—Arber's Reprint, 29.

12. The relation between lords and "farmers," and the primary meaning of that term, are clearly illustrated by an anonymous memorial addressed to the Vicar-General Cromwell: "The kinges maiestie may commaunde all lordes *which hath their landes in their own handes* to set up plowes themselves, and all fermores, which hath takyn leases of growndes, to tyll the earth themselves and set up plowes, or elles to give up their lease to the lorde, and that the lorde to sett in such which shall till the erth. *For comenly in all places riche fermers be the keepers of such grownde that is laide to pasture*, therfore they may well be commaunded to make plowes and to set men to worke their erth, which they have in ferme."—Pauli, *Drei volkwirth. Denkschriften*, 55.

13. 4 Hen. VII., c. 16; *St.*, ii. 540. The reason for exceptional legislation for the Isle of Wight was the necessity, on which the statute dwells, of maintaining a population sufficient to defend the country against French invasion.

14. Strype, *Eccelesiastical Memorials* (ed. 1822), ii., pt. ii. 361. Hales even goes on to say, contrary to the general opinion, "For such inclosure is very beneficial to the commonwealth; it is a cause of great increase of wood."

15. 25 Hen. VIII., c. 13; *St.*, iii. 451.

16. Strype, *u.s.*, 362.

17. 27 Hen. VIII., c. 28; *St.*, iii. 578.

18. It is rehearsed among the articles of inquiry in 1549. Strype, *u.s.*, 361.

19. Examples are collected in Nasse, *Land Community of Middle Ages*, 51–53. An arrangement of this kind survived in some places until recent times; thus, in the examination of a holder of copyhold property in Cambridgeshire, before the Select Committee of the House of Commons on Enfranchisement:

"921. Has the lord of the manor much land intermixed with yours in that common field?—A considerable portion, only that his is in very large pieces. He has as much as 25 acres lying in one piece; he has 19 acres in another place, and 38 acres in another place.

"922. *Has he any of the smaller portions which are bounded by balks?*—*Yes.*"—*Reports from Committees*, 1851, xiii. 142.

20. Ed. Pynson, fo. ii. It has been questioned, but without sufficient reason, whether the author of the books on *Surveying* and *Husbandry* was



the judge of the same name. See the discussion in Skeat's edition of the *Husbandry* for the English Dialect Soc. (1882).

21. Fitzherbert, commenting on the clause "Inquirendum est de panagio et herbagio villae" in the *Extenta Manerii*, writes in 1523, "That is to be understande of the commen pasture that belongeth to the towne, wherevpon the herdman kepeth the tenauntes catell. It may be so good that the tenauntes nede not to haue any seuerall pasture, but that their commen pasture shulde be able to fynde all their catell, bothe horses, mares, beestes and shepe, and so it was of olde tyme that all the landes, medowes, and pastures, lay open and vnclosed. And than was their tenementes moche better chepe than they be nowe, for the moost part of the lordes haue enclosed their demeyne landes and medowes, and kepe them in seuerallie, so that their tenauntes have no commyn with them therein."—*Surveying*, ed. Pynson, fo. viii.

22. This was the condition of things as late as 1851 in many manors in Norfolk (*Report of Enfranchisement Committee*, 102, qu. 588, and 196, qq. 1281, 1282) and Cumberland (*Ib.*, 23, q. 1559); and in the manor of Hitchen, in Herts, as late as 1816 (Seebohm, *Eng. Village Community*, 12). In the "Parva Curia" of the manor of Wimbledon a jury of seven persons were appointed in 6 Ed. IV., under a penalty of 6s. 8d., "ad ostendendum metas et bundas omnium terrarum quolibet furlongo de Wymbildon, separatim jacentium; et ad separandum terram liberam a terra customaria ibidem, citra proximam curiam."—*Extracts from the Court Rolls of Wimbledon* (1866), 18.

23. An instance of the sort of proceeding here meant and of its consequences is furnished by the *Court Rolls of Wimbledon*, 30, where the inquest reports: "Robertus [Twigge] inclusit cum spinis vivis et fossatis magnis iii acres terrae, jacentes in le Nethershot de Baston in Putneth, et in suum separale tenet, ubi tenentes ibidem a tempore contra contraria memoria hominum non existet habuerunt et habere debent communiam ibidem, pro omnibus averiis suis, a festo sancti Michaelis archangeli usque festum purificationis beatae Mariae tunc sequentem, per quod communiam illam ibidem habere non potuerunt, ad prejudicium et damnum magnum" (13 Ed. IV.). It is not, however, clear whether Twigge was a freeholder, though persons of that name appear in the lists of "free jurors," pp. 44 and 69; nor whether the enclosure remained. It may perhaps be gathered from a pamphlet by Francis Trigge, *The Humble Petition*, etc., 1604 (from which excerpts are given in Furnivall's *Ballads from MSS.*, 34), that the aggregation and enclosure of the open arable lands belonging to lords and freeholders was especially characteristic of the end of the sixteenth and beginning of the seventeenth centuries: "There is a

mighty thorn sprung up of late in divers places of this realm—I meane enclosure of *fields* and commons; whereas the Lords of Manours and *Freeholders* will have all their lands, which have heretofore ben open and in Common (so that the poor might enter Common with them), now laid together in several.” In later centuries it was sometimes stated to be the right not only of every “owner” but also of every “occupier” of land in the common fields of a township to “enclose and fence” his land, upon giving up all rights of common on other land which he may have enjoyed “in respect of the land so enclosed.” This the homage declared in 1819 to be the case at Hitchen; Seebohm, *Village Community*, 451.

24. Among the Articles of Inquiry given to the Commissioners of 1548 is the following: “Ye shall enquire . . . if any person hath lettē any lands to farm, or by copy of court-rolē reserving the sheep pasture of the same to himself; or if any person hath taken from his tenants their commons, wherby they be not able to breed and keep their cattle, as they were in time past.” Strype, *u.s.*, 360. See also Lever, *Sermon in the Shroudes* (Arber), 39: “The greatest grief that hath been unto the people in this realm, hath been the inclosing of comens.” The rebels in Norfolk went so far as to demand that the lords of manors should be deprived altogether of the use of the commons: “We pray that all ffreholders and copieholders may take the profights of all commons, and ther to common, and the lords not to common nor take profights of the same;” and again: “We pray your grace to take all libertie of leet into your owne hands, wherby all men may quyetyly enjoy their commons with all profights.” Russell, *Ket's Rebellion* (1859), 50, 51. This may be interpreted as due to an extravagant reaction against the encroachments of the lords; or as a selfish attempt to get rid of a righteous control over the action of the tenants themselves.

25. *Village Communities*, 135.

26. *Origin of Property in Land*, Eng. trans. (1891), 49, seq.

27. 20 Hen. III., c. 4; *St.*, i. 2.

28. For instance, we can hardly suppose that Matilda of Multon, and all the “twenty others” who broke down an enclosure on a manor in Cumberland, and were defeated when it came to a trial (18 Ed. I.) on the ground that they “habent sufficientem comunam extra predictum clausum,” were freeholders.—*Abbreviatio Placitorum*, 223.

29. *Surveying*, ch. vi.

30. *Ib.*, ch. viii. It is noticeable also that Fitzherbert calls special attention to the fact (“ye shall knowe”) “that swyne and geese haue no comen but by suffraunce, without speciall wordes in their charter” (ch. vi.). A lord who acted upon this view of his rights, and enclosed a

goose common, would greatly diminish the comfort and even the money income of the poorer tenants and cottagers—the very class who were being deprived of employment by the conversion of the demesne to pasture. An instance in which this was actually done is mentioned in the Report of the Jurors to the Commissioners when they visited Cambridge in 1549: “We fynde that the Queens College have taken in a peece of common ground commonlye called Goslinge grene, without recompense.”—Cooper, *Annals of Cambridge*, ii. 39.

31. Ralph Robinson’s translation, in Arber’s Reprint, 41. More’s own Latin text runs “*ejeiuntur coloni quidam suis.*” As to the nature of the clearances, see also Bacon, *Hist. of Hen. VII.* (Bohn ed.), 359, and *Select Works* of Crowley (E.E.T.S.), 122.

32. This limitation is added to avoid the necessity of considering for the present the peculiar tenures of some parts of Eastern and Western England.

33. There seems no reason why we should not accept what Coke says in the matter: “These tenants in their birth, as well as the Customary Tenants upon the Borders of Scotland who have the name of Tenants, were mere Tenants at will: and though they kept the Customs inviolate, yet the Lord might, sans controll, eject them.”—*Complete Copyholder*, sect. 32 (ed. 1668, p. 67).

34. This is found as early as 1328, *e.g.* in a surrender of that date “ad opus Martini et Alieiae uxoris ejus et heredum suorum, tenendum in vilenagio, ad voluntatem domini,” in *Cressingham Court Rolls*, privately printed by H. W. Chandler (1885), 18.

35. Lord Gray’s Case, before the Star Chamber, 4 Jac. i. “Ils elaieme un custome que puis le mort le tenant pur vie d’un copyhold, le Seignior est compellable de faire un auter estate pur vie al eigne fits or fille sil n’ad fits, et sic in perpetuum. . . . Pur le custome les 2 Justices Popham et Cook semblont eeo destre encount’ le Ley.”—*Cases Collect, etc.*, per Sir Francis Moore, 2nd ed., 1675, p. 788, pl. 1088.

36. The text is obscure, but this seems to be its meaning. “Pro lege per abbatiæ loca rusticis reputabatur, ut quislibet eorum, cui vel invidia vel cupiditas alterius adipisci rem inerat, praepositi impleta manu mercaturae beneficio, posset alium de sua mansione expellere. Item et aliud plebeiorum incommodum. Cum aliquis filios et uxorem habens, et agrorum fortunatus frugiferorum, domino suo jura inoffense persolveret, et is debito fine quiesceret, nulla filiis vel uxori ejus gratia rependebatur, sed illis ejectis, in defuncti lucrationibus extraneus data pecunia inducebatur.”—*Chron. de Abingdon* (Rolls’ Series), ii. 25. I am indebted for this reference to an article by the Rev. E. A. Fuller, in *Proc. Bristol and*

*Glouc. Arch. Soc.*, 1877-8. It is perhaps not necessary for the present argument to consider earlier evidence; but it may be noticed that in the *Rectitudines Singularum Personarum* it is laid down that when the *gebur* dies, his lord is to take possession of all he leaves. The Latin version, which is probably of the twelfth century, and which identifies the *gebur* with the *villanus*, runs, "Si mortem obeat, rehebeat dominus suos omnia."—Schmid, *Gesetze der Angelsachsen*, 375.

37. It would seem, to judge from the *Persones Tale* of Chaucer, that the legal theory which treated the villeins as incapable of property had not been forgotten even towards the end of the fourteenth century. Thus the parson says (*De Avaritia*) that "som lordes stewards" justify unreasonable amercements "for as moche as a cherl hath no temporel thing, that it ne is his lordes, as they say;" and he attempts later to meet the argument that "the lawe sayeth that temporel goodes of bondfolk ben the goodes of hir lord."

38. An abstract of the documents is given in *Staffordshire Collections*, v. 82. It must be confessed that this incident has been referred to in an earlier section (§ 5) as showing a customary security of tenure; but the true lesson to be drawn from it would seem to be that now stated in the text.

39. I purposely omit all reference to Bracton. So long as we are without a critical edition, and unable to distinguish Bracton's text from later accretions, it is possible to support by his authority almost any opinion as to villein tenure.

40. Ed. Nichols, 1865, ii. 13. Coke, in his *Commentary on Littleton*, 61a, makes a most unwarrantable use of the passage here cited concerning villeins on ancient demesne. Referring to what Littleton says of customary tenants *generally*, he adds, "Britton speaking of these kind of tenants saith thus:" when clearly Britton regards those of whom he speaks as occupying an exceptional position. Oddly enough, in his *Complete Copyholder*, 67, Coke justly refers to Britton as confirming his opinion of tenure at will. As to the difference described by Britton between the privileged villeins on royal demesne, and all other villeins, the key to it may perhaps be found in the similar difference between the *coloni* and *servi* in the later days of the Roman Empire; see Fustel de Coulanges, *L'Alleeu et le Domaine Rural*, 55, 71. To the instances and authorities referred to in the text must now be added those cited in Vinogradoff, *Villainage in England* (45, 46, 165, 206), which has appeared since the text was written.

41. The significance of this fact has been recognized, since it was first pointed out, by Professor Maitland, in his note, *A New Point in Villein Tenure*, in the *English Law Quarterly*, 1891.

42. In the law-French original; "Mes Brian chiefe justice dit, que, son opinion ad tous foits este, et enquez serra, si tiel tenant per le custome," etc.—*Co. Litt.* 60b.

43. Roscher, *Geschichte der National Oekonomik*, 122, 123.

44. Brit. Mus., *Lansdowne MSS.*, i. 153. A very short and imperfect abstract is given at the end of the second volume of Schanz, *Englische Handelspolitik*. It is about to be printed by the Royal Historical Society, under the editorship of Mr. Leadam.

45. Thus among the first few cases are 60 acres, 30, 60, 22 ( $=\frac{3}{4}$  virgate?); and later, in five villis following one another, we have 120, 60, 60, 60, 45.

46. It may be well to give the text of the second paragraph, "Item Mansiones de Burton Lazars in villa predicta devastantur, et inhabitantes ibidem recesserunt; et spectant ad eadem mansiones ccc acrae terrae, quarum x arantur, residuae vero in pastura; et per decasum predictum ecclesia ibidem decedit." We are not surprised to find that, according to the *Imperial Gazetteer*, Chosely has now but one house and a population of seven.

47. See especially 4 Hen. VII., c. 19, and 7 Hen. VIII., c. i. *Statutes of the Realm*, ii. 542; iii. 176.

47a. See, for instance, Bornhak, *Der Untergang des Bauernstandes in Neuvorpommern*, in *Preussische Jahrbücher*, lxi. 199; based upon the work by Fuchs on the same subject (1888).

48. Roscher, *u.s.*, 82.

49. Quoted in Bilguer, *Ländliche Besitzverhältnisse in Mecklenburg-Schwerin*, 73; from Boll, *Mecklenburgische Geschichte*, 354.

50. Hanssen, *Agrarhistorische Abhandlungen*, i. 431, 432.

51. *E.g.* "But now *magistra rerum experientia* hath made this clear" (*Co. Litt.* 60b); and such phrases as "Note that Littleton alloweth," etc (*ib.*, 62a, 62b). In a long criticism in the *Trans. of the Royal Hist. Soc.*, 1892, of the argument of this paragraph as it first appeared in the *Annals*, Mr. Leadam maintains that "copyholders," in the strict sense of the term, were very rarely evicted. His argument seems hardly conclusive; but as the purpose of the argument is equally well met by the use only of the more general term, "customary tenant," the references to copyholders have been omitted in the present publication. Much of the argument here presented is also rendered superfluous by the clear statement of the legal position of the villeins which is given in Professor Vinogradoff's *Villeinage in England* (1892), 44-47, which also disposes of Mr. Leadam's theory of a distinction between *villanus* and *nativus*. Mr. Leadam is of opinion that security of tenure was practically maintained by the working

of the customary court (*Trans.* 235), although this was for some reason or other altogether unknown to so erudite a lawyer as Coke (243, n. 3). But this optimistic view of the manorial courts would seem hard to reconcile with (1) such facts as the remonstrances of Wyelif and Langland, *supra* § 48, (cf. Leadam, 260, n. 6); or (2) the resort of villeins to the royal court in the vain attempt to obtain justice (Vinogradoff, 45, 46, and notes); or (3) the history of Castle Combe (in spite of Mr. Leadam's explanations, 252, n. 2). As to the *practice* of hereditary succession as a rule (248), there is no controversy; and the passage quoted from Hanssen, that in North Germany "nach dem Tod eines Hufners wurde der Regel nach mit einem seiner Söhne von neuem kontrahirt, was *faktisch* einem Erbrecht sich näherte" (248, n. 3), tells in favour of the contention in the text.

52. Brewer, *Calendar of State Papers*, ii. 1054, No. 3297.

53. *Ib.* *Appendix*, 1546, No. 53.

54. Pauli, *Drei volkswirthschaftliche Denkschriften*, 55.

55. *The Pleasant Poesie of Princely Practice*, by Sir William Forrest, Priest: in Starkey's *England* (E.E.T.S.), 115. Forrest, however, in this passage is perhaps speaking of "farms" in the earlier sense of the term.

56. Froude, in his description of Somerset's action as due to a sentimental and unpractical "enthusiasm" which dreamt of "extirpating avarice, selfishness, and cruelty out of the heart of mankind, and bringing back the Golden Age" (*Hist.*, pop. ed., iv. 366, 368), seems to have been unduly influenced by the opinions of Paget and other members of the Council, and to have failed to notice the previous efforts in the same direction.

57. See Loughborough's summary of the cases quoted at length in Scriven, *On Copyholds* (ed. 1816), 221-225. The position of affairs as late as 1607 is made clear by *The Surveyor's Dialogue* by I. N. (John Norden), published in that year:

"*Farmer.* . . . You have not satisfied me . . . touching the fines of eustomary tenants of inheritance. . . ."

"*Surveyor.* . . . This kind of tenant hath seldom any competitor to emulate his offer, because the tenant leaveth commonly one either in right of inheritance, or by surrender to succeed him, and he by custom of the manor is to be accepted tenant, always provided he must agree with the lord, *if the custom of the manor hold not the fine certain, as in few it doth.*" He goes on to argue that the recent increase had only kept pace with the rise in the prices of farm produce; 11, 12.

58. See, among other contemporary writers, Crowley, in *The Way to Wealth: Works*, 144: "Ye . . . levied greater fines than have heretofore



been levied, put them from the liberties (and *in a manner* inheritance), that they held by custom," etc. Cf. the same writer's *Information, etc.*, *ib.* 165-166.

58a. This was the result, according to Bornhak, following Fuchs, of the substitution of payments for services in Neuvorpommeru in the eighteenth century. "Allmählich macht sich seitens den Herrschaften die Anschauung geltend dass das Besitzrecht an den Höfen selbst durch die Pachtverträge eine Novation erfahren habe, dass die Bauern welche bisher einen lebenslänglichen oder gar noch einen erblichen Besitz an ihren Gütern gehabt hatten, ihre bauerlichen Stellen nur noch auf Zeitpacht besäßen."

59. See Marshall, *Rural Economy of Gloucestershire*, ii. 9.

60. Ed. 1523, fo. lvi.

61. *Supplication of the Poor Commons*, in *Four Supplications*, 89. The introduction of leases would seem to have been sometimes agreed to by the tenants under pressure; see *e.g.* the very interesting account given by the jurors of the manor of Hewlington early in the seventeenth century of the change effected in the two royal lordships of Bromfield and Yale in North Wales. The tenants claimed that the lands were "descendable to them and their heirs, as well by copy of Court Roll as by the custome of the countrey." But in 1562 "their estates in the said lands were called in question." It was found that the rents paid were more than £105 less than in ancient times "by reason of the great mortality and plagues . . . in the raigne of Edward the third, and of the rebellion of Owen Glindor, by reason of which mortallity and rebellion the countrey was wasted . . . in so much that the then Lords of the Soyle were constrained by their Stewards and officers to graunte the said landes at a lesser rent . . . to such as could be gotten to take it." Commissioners were appointed to make a survey, and "revive the said decayed rent"; and the tenants surrendered their "copies and customarie estates," and agreed to accept leases of forty years instead of them, upon the old rent, with a fine of two years' rent upon the taking out of their leases.—Palmer, *Ancient Tenures in the Marches* (Wrexham, 1885), 130.

62. 21 Hen. VIII. c. 15; *St.*, iii. 297.

63. Cf. Seebohm on *French Peasant Proprietorship* in the *Economic Journal*, i. 71.

64. The earliest distinct evidence of the enclosure of more than an occasional acre in common fields is that given by the statutes 4 Hen. VII., cc. 16, 19 (1488-9). The former says that in the Isle of Wight "many towns" (of course in the sense of rural centres of population) "and villages have been let down and the fields dyked and made pastures . . . of late;"



and the latter, which applies to the whole kingdom, orders the restoration of houses decayed "within three yeres past." The Quinton letter, printed in Denton, *Fifteenth Cent.*, 318, which could not have been written before 1486, describes the changes in that village as "within this iiii year." But the movement had probably been in progress for some years before it attracted the notice of Parliament; and an anonymous pamphleteer on the Staple (conjecturally identified with Clement Armstrong), writing probably in 1519, speaks of the destruction of "a 400 or 500 villages in the myddell parts of the body of the reame" as having occurred "within a sixty years" (Pauli, *Drei Denkschriften*, 26). But it is clear from the context that he is speaking very vaguely, and probably says "sixty years" merely because the accession of Edward IV. gave him a convenient point from which to reckon. I have accordingly taken the date 1470 as indicating with sufficient accuracy the beginning of the movement on anything like a large scale.

65. It will be seen later that most of the districts which were found to be already enclosed when the second wave of change set in, had been enclosed before 1550—in most cases thirty years before. The popular disturbances during the reign of Charles I. seem to have been caused by the enclosure of wastes, commons, woods, and marshes, and not of common fields. See *Hist. MSS. Commission*. iv. 52 (wastes, 1640); 69 (moor, 1641); 53 (marsh, 1641); 53 (wood, 1641); v. 37, 93 (marshes, 1642-3); 91 (woods, 1643). The riot in Leicestershire in 1607 was, however, probably due, to a large extent, to the enclosure of arable land; for such enclosures, as will be seen later, went on longer there than elsewhere. It is noticeable that in Watts' *Bibliotheca Britannica* there are no entries under the head of "Enclosures" between the years 1656 and 1766.

66. It is hardly necessary to give any authorities for what is apparent on glancing at the *Agricultural Surveys*, to which reference will be made later. See, for instance, *Rutlandshire*: "When the first great run of enclosures took place, which was about the year 1760" (Marshall's *Abstract for Midland Dep.*, 242).

67. According to the figures usually quoted from Porter's *Progress of the Nation* (ed. 1847, 146), there were 3867 Enclosure Acts passed between 1760 and 1844, and it is pointed out that this is almost half the number of parishes—8500 (Scrutton, *Commons*, 113). But (1) some parishes were dealt with by two or more Acts; (2) many, especially of the later, Acts were for the enclosure of commons and wastes only; and (3) Acts were passed to hasten the change in many parishes wherein the consolidation of holdings had already taken place to a considerable extent.

67a. See the reasons given by Cunningham, *Industry and Commerce*, ii. 52, 53, for believing that the evil of enclosure "ceased to be of practical importance" about this time.

68. Tusser (ed. Dialect Society), 141—

"All these doo enclosure bring . . .  
Example (if doubt ye doo make)  
By Suffolk and Essex go take."

Mr. Prothero remarks (*Pioneers and Progress of English Farming*, 30), that "the proverbial 'Suffolk stiles' seem to point to the early extinction of parish fields."

69. Tusser, as previous note. *Briefe Conceipt*, 40: "We see the countyes where most Inclosiers be are most wealthy, as Essex, Kent, Northampton, etc." Fitzherbert, *Surveying* (1539), reprinted in *Ancient Tracts on Husbandry*, 98: "It may fortune men wyl say, that if all be enclosed, that there wold be many foule lones, as there be in Essex." The author of a *Vindication of the Considerations*, etc. (1656), in the Bodleian (Gough, *Leic.*, 7), quotes the author of the *Anatomy of Melancholy* as saying "the richest countries are still enclosed, as Essex, Kent, with us, etc.; Spain, Italy." *Survey of Essex*, by Young (1807), i. 164 "Essex has for ages been an enclosed country, so that there was no field here for the great Parliamentary exertions which have been made in so many other counties." But it would appear from his first report (1795) that in the southern part of the county "the arable land in about forty parishes in the county" still had "very much in open common fields." The average, he says, was 1200 acres per parish, amounting on the whole to 48,000 acres. It will be seen that in Middlesex the fields as a rule remained opened, so that the conditions of the south of Essex and of Middlesex may be regarded as similar.

70. *Briefe Conceipt* and Burton, as in previous note. *Survey* (1796), 53: "There is no portion of Kent that is occupied by a community of persons, as in many other counties." The only enclosures recommended in the *Survey* (53, 127, 175) are of wastes and commons.

71. *Survey*, 1795 (in Marshall's *Review of Southern Dep.*, 8): "The land is generally enclosed. . . . The larger common fields lie towards Cambridgeshire." *Second Survey*, by Young (1813), 48: "Enclosing has gone on as well in Hertfordshire as we have any reason to expect in a country so generally enclosed of old time. There remains, however, much to be done on the northern part of the county." Leland records, "From Luton to St. Albans 8 miles by woody and enclosed ground" (v. 124).

72. There is here a most striking concurrence of earlier and later authorities, from which it is evident that almost all the change in Warwickshire had been effected by the time Leland visited the county, and that it then remained undisturbed until the middle of the eighteenth century. Leland, *Itinerary*, iv. 67: "I learned at Warwick that the most part of the shire of Warwick that lyeth as Avon River descendeth on the right hand, or ripe of it, is in Arden (for so is the ancient name of that part of the shire), and the ground in Arden is much enclosed, plentiful of grass, but not of corn. The other part of Warwickshire that lyeth on the left hand or ripe of Avon River, much to the south, is for the most part champion, somewhat barren of wood, but plentiful of corn." Cf. with this the *Survey* of 1794 (in Marshall's *Midland*, 284): "About 40 years ago the southern and eastern parts of this county consisted mostly of open fields." For the northern corner of the county, cf. Marshall, *Rural Econ. Midland Counties*, i. 4, 8.

73. *Second Survey* (1813) by Pitt, 52, 53: "The greater part of this county is ancient enclosure. . . . Part of the vale of Evesham and some other rich common fields are of modern enclosure." Cf. *First Survey* (1794) by Pomeroy (in Marshall, *Western Dep.*, 357): "The most extensive (open fields) are in the neighbourhood of Bredon, Ripple, and to the east of Worcester." See also Marshall, *Rural Econ. of Gloucestershire*, i. 16, for the southern part of the shire. Leland found many enclosures in the centre and north-west (iv. 104-112).

74. *First Survey*, 1794 (in Marshall, *Northern Dep.*, 141): "In this county the lands or common fields of townships were for the most part enclosed soon after the Restoration." *Second Survey* (1810), 86: "The first authentic account I can find of enclosures is of Byhope in 1658, and of Stockton common fields in 1659, containing 1765 acres."

75. *Survey* of 1794 (in Marshall, *Midl. Dep.*, 334, 335): "There are 316 parishes in the district, 227 of which are in a state of enclosure, and 89 in open field. . . . Perhaps one-half of the enclosed parishes may be denominated old enclosures, at least that proportion may be said to be occupied as grazing farms, which is the use to which old enclosed land in this county is generally applied." To judge from the *Briefe Conceipt* before quoted, and the reference to this county in the pamphlet *Certain Causes* (in *Four Supplications*), it might be thought that the changes were much more sweeping. But besides the estimate given in the *Survey*, there is abundant evidence to the contrary in the *Enclosure Acts*, and in Young's *Northern Tour*, i. 59, 62. There may possibly have been a good deal of enclosing just before the pamphlet referred to was written, though it must soon have come to an end, owing either to the force of public

opinion, or to the discovery that pasture farming was not so profitable as had been anticipated.

76. *Survey of 1794* (in Marshall's *Western Dep.*, 173): "This county does not contain much common-field lands, most of these having been formerly enclosed, and before Acts of Parliament for that purpose were in use."

77. That a very considerable amount of enclosing had taken place in the southern and western part of Leicestershire before the middle of the seventeenth century is apparent from the lists given in Lee's *Regulated Enclosure*, 5, 8. On the other hand, Leicester, to the author of the *Briefe Conceipt*, was the awful example of the evils of champion (though it is true he probably wrote a hundred years earlier); and the *Survey of 1809* (Marshall, *Midland Dep.*, 201) says that "a very large proportion of this county has been enclosed in modern times, and within the last thirty or forty years."

78. The returns to the Inquest of 1517 show that enclosures had already taken place sporadically all over the county of Norfolk, but in most cases the number of acres was small—16, 18, 22, 30, 60 (*i.e.* a half-virgate, three-fourths of a virgate, a virgate, two virgates); although in three or four instances it was as large as 300 acres, and in one even 600. The severe measures of the Government probably prevented any further violent enclosures. For there is no suggestion of the enclosure of *arable* in the *Grievances of the Norfolk Rebels* (see Russell, *Ket's Rebellion*); and Tusser, whose experience was obtained at West Dereham and Norwich (pp. xiv., xv.), takes from Norfolk his illustrations of the evils of champion (p. 142). According to the *Survey of 1796* (in Marshall, *Eastern Dep.*, 301) one-fourth of the arable land was even then in common fields; and Marshall (*Rural Econ. Norfolk*, 8) tells us that "towards the north coast some pretty extensive common fields still remained open." East Norfolk was, however, generally enclosed, and Marshall declares that "upon the whole, East Norfolk at large may be said to be a very old enclosed country" (*ib.*, 4). The probable explanation is that this had come about gradually and by piecemeal, as each owner or copyholder succeeded in getting control of a few adjacent strips. Thus the *Survey of 1796 (u.s.)* remarks, "The natural industry of the people is such that, wherever a person can get four or five acres together, he plants a whitethorn hedge around it, and sets an oak at every rod distance, which is consented to by a kind of general courtesy from one neighbour to another. . . . In this way many or most of the common fields of East Norfolk appear to have been enclosed." For isolated strips of glebe or other land still remaining in the midst of such enclosures, see Marshall, *Norfolk*, 8.

79. There seem to be no accessible estimates for the Isle of Wight. It was thought necessary to pass a special Act in 1488-9 to prevent depopulation, and the Act states that "many towns and villages had been let down" (*St.*, ii. 540). On the other hand, in 1808 (*Survey*, 123) there were still "some common fields."

80. See n. 78, *supra*.

81. In 1794, out of 84,000 acres of arable, 24,000 were still in open fields; but out of the eighty-one cases of enclosure given in the *Survey* of 1813 (218), ten are called "old," and sometimes "very old;" and Leland found "woody and enclosed ground" for eight miles from Luton to St. Albans, v. 124.

82. See Aubrey, quoted in Scrutton, 79.

83. *Yorkshire*. For the *East Riding*, see the *Enclosure Acts*; the *Survey* of 1812, 89; Young's *Northern Tour*, i. 146-178; ii. 3-14, 33-34; iii. 417. For the *North Riding*, the *Enclosure Acts*; the *Survey* of 1800, 353; and for the Vale of Pickering, Marshall, *Rur. Econ. of Yorks.*, i. 50. For the *West Riding*, see *Survey* of 1799 (in Marshall, *North Dep.*, 343). Mr. Scrutton's remark, that in the North and East Ridings few common fields remained (114), though probably true of 1800, would be hardly correct for 1760.

84. *Lincolnshire*: *Enclosure Acts*; *Survey* of 1794 (in Marshall's *Eastern Dep.*, 16); *Survey* of 1799 by Arthur Young, 17, 18, 79, 80 (Isle of Axholme), and also 83, 84; Young's *Northern Tour*, i. 77-94.

85. *Nottinghamshire*: a large part of the shire was occupied by the Forest of Sherwood. For the rest, see *Enclosure Acts*, and the *Survey* of 1798.

86. *Derbyshire*: *Survey* of 1794, 33; Farley's *Survey* of 1813, ii. 71-78.

87. *Huntingdonshire*. According to the *Survey* of 1793 (in Marshall's *Midl. Dep.*, 407), only forty-one out of the hundred and six towns and hamlets were wholly enclosed. The *Survey* of 1813, 87, gives a list of parishes, from which it would seem that almost all those that were enclosed had been so transformed during the previous fifty years. It mentions, however (90), that "Gidding Parva has been enclosed 306 years by quick hedges, with a little timber in the rows, into fields of from five to thirty-six acres," and at Keyston "there are two open field farms; the remainder of the parish has been enclosed three hundred years."

88. *Cambridgeshire*. The *Survey* of 1794 (in Marshall's *Midl. Dep.*, 612) states that 132,000 acres of arable out of 147,000 were still in open field.

89. See n. 81, *supra*.

90. *Buckinghamshire: Survey of 1794* (in Marshall's *Midl. Dep.*, 497): "The county contains about 91,906 acres of common fields, exclusive of wastes." John Worlidge, in his *Systema Agriculturae* (2nd ed. 1675, 11), tells his reader to "compare such Counties and Places in England that are for the most part upon Enclosure with the Champion and *Chilterne Counties* and Places." By this phrase, I suppose we may at least understand the southern portions of Buckinghamshire and Oxfordshire.

91. *Middlesex: Survey of 1794* (in Marshall's *South Dep.*, 102): "The common fields in the county of Middlesex, which are at present on a good course of husbandry, form a large proportion as to the number of acres, when compared to the cultivated enclosures in the county." During the five years, 1802-1807, 11,520 acres in common fields were enclosed; and there still remained ten or twelve thousand acres open (*Fuke's Survey*, 2nd ed., 121, 132).

92. *Berkshire: Survey of 1794* (in Marshall's *South Dep.*, 48): "A moiety at least of the arable land of Berkshire is still lying in common field."

93. *Wiltshire: Survey of 1794* (*u.s.*, 191): "At this time the greater half of the parishes in this district are wholly or partly in a common field state."

94. *Gloucestershire: Survey of 1794* (in Marshall's *Western Dep.*, 597): "The common field and common meadow system of agriculture we find scarcely anywhere more prevalent than in Gloucestershire." Cf. *Rur. Econ. of Gloucestershire*, i. 16; ii. 69.

95. *Herefordshire: Survey of 1794* (*u.s.*, 266).

96. *Certain Causes in Four Supplications* (E.E.T.S.), 98, 99.

97. Cf. Young's *Southern Counties*, 145, 146.

98. See Palmer, *Ancient Tenures in the Marshes of N. Wales*, 25, 26; and Hanssen, *Agrarhistorische Abhandlungen*, 217.







99. See Prothero, *English Farming*, 2, 3.

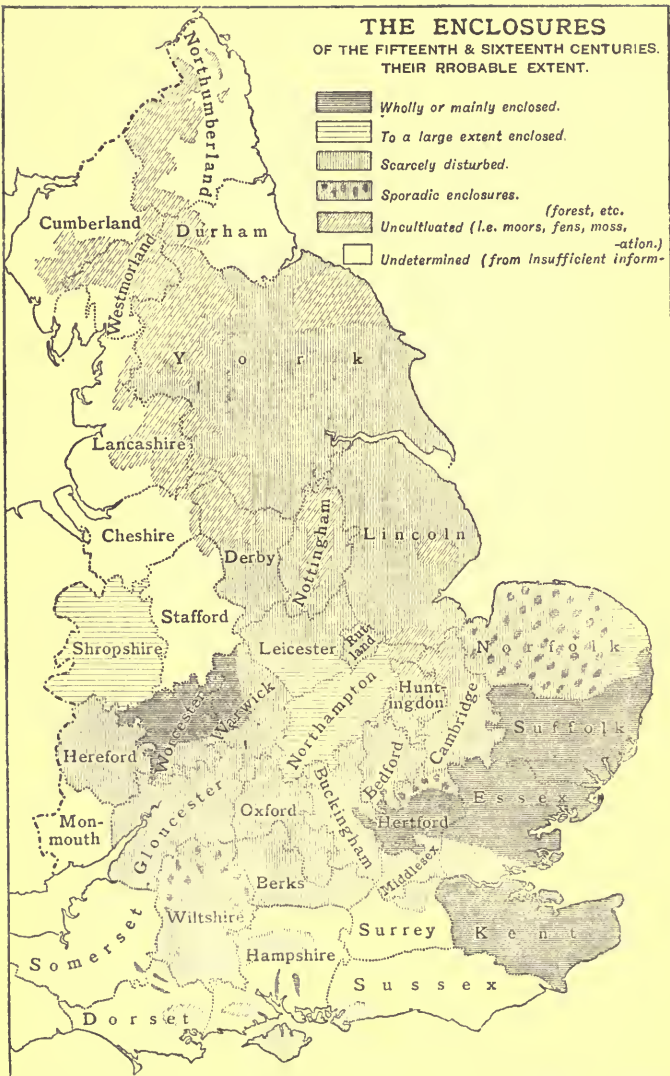
[NOTE.—A summary of recent conclusions as to the influence of Roman law on the position of the peasants in Germany, may now be found in A. Buchenberger's *Agrarwesen und Agrarpolitik* (1892), 93-97, (one of the volumes in Wagner's *Lehr- und Handbuch der politischen Oekonomie*).]



# THE ENCLOSURES

OF THE FIFTEENTH & SIXTEENTH CENTURIES.  
THEIR PROBABLE EXTENT.

-  Wholly or mainly enclosed.
-  To a large extent enclosed.
-  Scarcely disturbed.
-  Sporadic enclosures.
-  Uncultivated (i.e. moors, fens, moss, (forest, etc. -ation.)
-  Undetermined (from insufficient inform-



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## CHAPTER V.

### THE RELIEF OF THE POOR.

[AUTHORITIES.—The character of mediæval poor relief has been placed in a clear light by the *Geschichte der kirchlichen Armenpflege* of the Catholic theologian and economist, Georg Ratzinger (2nd ed. 1884. Freiburg-im-Breisgau) which was called forth by the too-sweeping condemnation of the mediæval church by A. Emminghaus, in the introduction to his standard collection of monographs in *Das Armenwesen und die Armengesetzgebung in Europäischen Staaten* (1870). Ratzinger has practically removed out of the field of controversy many long-disputed points; although he has hesitated to apply his conclusions to England. He has been misled by Cobbett's *History of the Protestant Reformation* (1829); which is nevertheless, in spite of its exaggerations, an able presentation of a view worth considering. Franz Ehrle has completed the work of Ratzinger by his account of the discussion among Catholic theologians in the sixteenth century concerning the theory of almsgiving, in his *Beiträge zur Geschichte etc. der Armenpflege* (Freiburg-im-Breisgau, 1881); and he has rediscovered for modern economists the treatise of Vives, and the reforms of Ypres. An account of the movement for the reform of poor-relief on the Protestant side is given in Schmoller, *Zur Geschichte der nationalökonomischen Ansichten in Deutschland während der Reformationsperiode* (1861), and in Wisemann, *Darstellung der in Deutschland zur Zeit der Reformation herrschenden nationalökonomischen Ansichten* (1861). A most admirable though very brief survey of the whole history of poor-relief, far more complete and scholarly than any similar attempt, has recently been written by Gerhard Uhlhorn, under the head, *Armenwesen : Geschichte*, in the *Handwörterbuch der Staatswissenschaften* (vol. i. 1890, Jena): to this is appended a useful bibliography of French and German works. There is an article by Reitzenstein on the history of poor-relief in France, in Schmoller's *Jahrbuch für Gesetzgebung*, v., which presents important points of comparison with

England. Eden's great work, *The State of the Poor* (1797), is chiefly useful for a later period, and for the earlier centuries contains little more than a *precis* of legislation; even this is not always exactly accurate, and it is necessary to have constant recourse to the text of the statutes. On tithe it is well to consult Edwin Hatch, *Growth of Church Institutions* (1887); for tithe in England, Kemble's *Saxons in England*, bk. ii. chs. 10, 11 (new ed. 1876); and for early Christian charity, Uhlhorn, *Christian Charity in the Ancient Church* (Engl. trans. 1883). On the relief of poor members by craft guilds and religious fraternities, most of the works referred to in ch. iii. contain information. As to the endowed hospitals, and especially the leper-houses, some information is collected in Creighton, *Hist. of Epidemics in Britain* (1891). There is a good article on Church Ales by Peacock, in the *Archæological Journal*, xl. (1883). For personal charity, and indeed for most sides of mediæval almsgiving, abundant material is to be found in the numerous collections of wills. Those most used in the following chapter have been the *Bury Wills and Inventories*, ed. Tymms, Camden Soc. (1850); *Fifty English Wills*, ed. Furnivall for the Early Engl. Text Soc. (1882); and the *Calendar of Wills, Court of Husting, London*, part ii. 1358-1688, ed. Sharpe, for the Corp. of London (1890). For vagabondage, C. J. Ribton-Turner's *History of Vagrants* (1887) will be found very useful; and may be supplemented by Harman's *Caveat for Common Cursetors* (1567-1573), published by the New Shakespeare Society, together with some other contemporary pamphlets, under the title, *Rogues and Vagabonds of Shakespeare's Youth* (1880, and for the E.E.T.S., 1869). But much of the necessary information on the whole subject has to be gathered from miscellaneous sources. Some hints may be found in Nitti's article on *Poor Relief in Italy*, in the *Econ. Review*, ii. (Jan. 1892).]

§ 53. THE history of the relief of distress in the Middle Ages, and of the growth of the Elizabethan poor law, is closely connected with more than one burning question of to-day. One group of writers has been wont to explain the need in the sixteenth century for some public provision for the destitute by a reference to the religious changes of the period; another group, by pointing to the economic changes. To the former the English Poor Law is the standing condemnation of the Reformation;<sup>1</sup> to the latter it is a sign of that disinherison of the people which they ascribe to modern

methods of production.<sup>2</sup> Writers of every school, almost without exception, have spoken as if it were unique in the history of Europe. How far these positions are true will appear in the course of this chapter.

Before expressing any opinion as to the character of mediæval destitution, and the adequacy of the means for its alleviation, it will be well to pass in review the various agencies actually employed for the purpose. From such a survey a number of conclusions will probably disengage themselves.

In the early Christian Church the main, and for a long time the sole purpose of the sums of money contributed by the faithful, and collected by the Church officers, was the relief of poor members; and ecclesiastical theory throughout the Middle Ages regarded this as the primary obligation which rested upon the administrators of church property.<sup>3</sup> In the sixth century, and owing very largely to the influence and example of Gregory the Great, the custom arose of dividing the Church revenues into four portions, one for the bishop, one for the rest of the clergy, one for the maintenance of the church fabric, and one for the poor.<sup>4</sup> When in the eighth century the payment of tithe became generally obligatory, the same rule of quadripartite division was extended to it; and as tithe was the largest, most regular, and most general source of revenue, the burden of providing for the poor was soon regarded as especially attached to this branch of Church income. The canons which insist on the payment of tithe, and the secular legislation enforcing them, invariably declare that the relief of the poor is one of the main reasons for the demand; and many of the Fathers advocated the payment chiefly on that ground. One of them, for instance, writes that "a man who does not pay his tithes will appear before the tribunal of the Eternal Judge, charged with the murder of

all the poor who have died of hunger in the place in which he lives; since he has kept back for his own uses the substance which God has assigned to the poor.”<sup>5</sup>

In England a tripartite division of tithe is said to have been among the instructions given by Pope Gregory to S. Augustine;<sup>6</sup> and this at any rate was what was prescribed by later ecclesiastical councils,<sup>7</sup> and confirmed by a law of Ethelred early in the eleventh century.<sup>8</sup> Ethelred’s law was but a repetition of the language of the canons: “The king and his *Witan* have chosen and said, as right it is, that one third part of the tithe which belongs to the Church shall go to the reparation of the church, and a second part to the servants of God, and a third to God’s poor and needy men in thralldom.”

The administration of all Church revenues had originally been in the hands of the bishops; but after a time settled revenues were allotted to the several parishes.<sup>9</sup> These revenues were very naturally the tithes of the parishes themselves; and the right of the bishop to a portion soon disappeared.<sup>10</sup> In the reorganization of the ecclesiastical system, therefore, which was brought about on the Continent by the legislation of Charles the Great, the duty of relieving the poor was definitely assigned to the parish priests, who were ordered to devote to that purpose the proper fraction,—in some capitularies a fourth, in others a third,—of the tithe: and an attempt was made to place the whole work of charity on parochial lines.<sup>11</sup>

English lawgivers followed Continental precedent. An ordinance ascribed to Egbert, Archbishop of York in the eighth century, ran as follows: “The priests are to take tithes of the people, and to make a written list of the names of the givers, and according to the authority of the canons they are to divide them, in the presence of men that fear God. The first part they are to take for the adornment of the church;

but the second they are, in all humility, mercifully to distribute with their own hands, for the use of the poor and strangers; the third part, however, the priests may reserve for themselves.”<sup>12</sup> But this rule was taken verbally from one of Charles the Great’s capitularies of the year 801.<sup>13</sup> It was afterwards repeated in England in much the same terms by the canons of Ælfric in 960.

On the Continent the parochial system, if indeed it had ever been in working order, soon gave way; and such relief of the poor as was attempted became the work of monasteries, of hospitals, of gilds, and of private almsgiving: a miscellaneous congeries of benevolent agencies, with no sort of mutual co-operation, and no adequate supervision of the recipients of charity. The old rules as to the employment of tithes, even as soon as the twelfth century, were in many places,—so we are assured by a contemporary,—not only little regarded but well-nigh forgotten.<sup>14</sup>

Poor relief in England followed, it would seem, a course exactly parallel.<sup>15</sup> The richer benefices, or their tithes, fell very generally into the hands of non-residents,—of Church dignitaries, of conventual or collegiate bodies, or of aliens; who would scarcely have been able, even had they been disposed, to exercise that personal care in the distribution of alms which the parochial theory assumed. The repeated provisions in statutes and canons that in every case of appropriation of tithe a sufficient portion should be allotted to the relief of the poor,<sup>16</sup> while they testify to the survival in the minds of legislators of the idea of parochial responsibility, and a recollection of the original purpose of tithe, are indications rather of the cessation of the practice than of its maintenance. The evidence is negative only, but it is fairly conclusive. No doubt here and there Church dignitaries and corporate bodies spent considerable sums in almsgiving to

the poor of those parishes whence they drew tithe; but where this was so, it was regarded as the gracious outpouring of their own charity rather than as a matter of obligation, enforced by public opinion or ecclesiastical discipline. Moreover, ill as we may think of some of the ecclesiastical changes of the sixteenth century, we can hardly suppose that if it had been a general custom to allot to the relief of distress a considerable proportion of the tithe, the usage would have been permitted altogether to pass away when impropriated tithes were transferred to secular hands.

It is improbable that the ordinary parochial clergy distributed in alms any large part of their income. Chaucer's "poor parson of a town" (*i.e.* township or village) is clearly pictured to us as an exception, in that

" Full loth were him to cursen for his tithes,  
But rather wolde he yeven out of doute  
Unto his poure parishens aboute  
Of his offring, and eke of his substance:  
He could in litel thing have suffisance." <sup>17</sup>

Indeed, the author of *Piers Plowman* depicts the clergy as so impoverished since the Great Pestilence that they had but little to 'give—

" Persones and parisch prestes · playneth to heore bisschops  
That heore parisch hath ben pore · seth the pestilence tyme  
And asketh leve and lycense · at Londun to dwelle,  
To singe ther for simonye · for selver is swete." <sup>18</sup>

This opinion is confirmed by the circumstance that such parochial poor relief as we do find at the close of the Middle Ages was furnished, as a rule, not from the tithes, but from other sources. We can trace in many places the gradual growth in the fifteenth century of a small capital, known as the Church *stock* or *store*,—a fund which was managed by *wardens*, who lent it to trustworthy persons on good security



at a high rate of interest, and from the proceeds met the cost of repairs to the church fabric, and gave assistance to poor parishioners.<sup>19</sup> The stock was sometimes live stock, a form in which its employment did not come into conflict, as the granting of loans might do, with the popular prejudice against usury. "There were," says one of the English reformers, "in some townes [*i.e.* townships or villages] six, some eight, and some a dozen kyne, gyven unto a stocke, for the reliefe of the poore, and used in such wyse that the poore cotingers, which coulde make any provision for fodder, had the milk for a very small hyre; and then, the number of the stocke reserved, all maner of vailes besydes—both the hyre of the mylke, and the pryces of the yonge veales, and olde fat wares—was disposed to the reliefe of the poore."<sup>20</sup>

Where there was no permanent stock, the same two purposes, the repair of the church and the relief of the poor, were often provided for from the proceeds of Church Ales at Whitsuntide,<sup>21</sup>—festive gatherings usually in the Church House or Church Tavern,<sup>22</sup> where the ale which had been brewed from gifts of corn were paid for by the drinkers; so that, as a bitter Puritan put it, "he that sat the closest to it was accounted the godliest man of all."<sup>23</sup> Of much the same character were the "Gatherings" with "Hobbyhorse" at the festivals of Christmas and New Year.<sup>24</sup> All these devices to raise money for parochial purposes were a spontaneous creation of the fifteenth century among the people themselves; and they show that the Tudor legislation, which restored in a new form the old parochial responsibility, rested in many parts of the country on a basis of custom and sentiment which had long been growing up. We shall return to this in dealing with the subject of the village gilds.

§ 54. The work which the parochial clergy were either unable or unwilling to perform, had in some districts and

to some degree been accomplished by the monasteries during the earlier centuries of their existence. The relief of the distressed had been one of the works of charity to which the founders of the monastic orders,—like S. Francis in later times,<sup>25</sup>—had felt themselves most directly drawn, and by which they had most readily won popular sympathy and respect. It appeared as an obligation in the rules of each of the monastic orders; in that of the oldest and greatest, the Benedictines, it was laid down that one-tenth of the conventual income should always be spent on the poor.<sup>26</sup> In every monastery there was an appointed officer, a *portarius*<sup>27</sup> or *eleemosynarius*<sup>28</sup> (almoner), who daily distributed alms in food and money to those who came for help; and in the better days of monastic history the almoner was wont to visit the distressed in their own homes in the village outside the gates.<sup>29</sup> It is a natural conclusion that the suppression of the monasteries must have left destitute many who had been dependent upon their charity; and some writers have gone so far as to assign to this one cause the misery which called forth the Poor Law.<sup>30</sup> There are, however, very strong reasons for believing that, for a couple of centuries at least before the Reformation, the English monasteries had done but little for the relief of honest poverty;<sup>31</sup> and that their almsgiving tended rather to foster the growth of a class of professional beggars—that, in the strong words of Fuller, “the Abbeys did but maintain the poor which they made.”<sup>32</sup> The reason for the wide divergence of views as to the character of English monastic establishments in the sixteenth century is probably to be found in the fact that in this, as in so many other matters, the attention of historians has been too narrowly confined to English data. When we remember that the great orders were not restricted to one country, that the monastic system exhibited the same general

features over the whole of Western Europe, and that it stood in the midst of a society which had everywhere the same general structure, we see how improbable it is that the condition of abbeys in England should have differed at all essentially from that of abbeys elsewhere. Now, the poor relief of the Catholic world of the Middle Ages has recently been investigated with care and judgment by the Roman Catholic historian and economist Ratzinger. Ratzinger, speaking with especial regard to Germany, both as to those lands which afterwards became Protestant and those which remained Catholic, arrives at the conclusion that the action of the monasteries had been altogether ineffectual for the diminution of pauperism; and that it was this failure, and the similar decay of the hospitals and other charitable foundations, which rendered it necessary to transfer the relief of the poor to civic, and afterwards to state, authorities. In his view, the Poor Law which Roman Catholic and Protestant countries alike enacted in the sixteenth century was not the result of the abolition of mediæval foundations, but of the non-success of mediæval foundations. In the fifteenth century, and too often in the fourteenth, he tells us, the monks yielded to idleness and luxury, and love for the poor grew cold: <sup>33</sup> the careful investigation and relief of distress among the labouring population of the neighbourhood was given up; and nothing remained but indiscriminate almsgiving at the convent gate. And Ratzinger points out that, even with the best intentions, the distribution of alms at a number of centres scattered very unevenly over the country, and without any system of joint action, could not but be inadequate and hurtful. "The monasteries, hospitals, etc., were without what is the first requisite for an orderly relief of the poor—unity, concentration, organization. Each hospital, each convent, gave alms not only to the people of

the district, but also to all strangers who chose to apply, without having any power of control over them;” and he adds as the natural consequence, that “professional beggary, even with the harshest laws, could not be overcome.”<sup>34</sup> The argument derived from the mediæval records of other European countries is confirmed by the evidence of such modern lands as have retained mediæval conditions unaltered until our own day. Thus in Italy, before the recent reforms, we are told that at the gates of many of the religious houses troops of idlers assembled, “beggars by profession, and often children of beggars, who, rather than work, were content to live on charity.”<sup>35</sup>

There is no reason to suppose that a similar degradation of monastic almsgiving had not appeared in England. The contrary seems to be clearly indicated by our evidence, scanty as it is; and this evidence, coming from the most opposite directions, all produces the same impression. Thus, in the injunctions to the monasteries drawn up by the king’s commissioners in 1535, while it is insisted that in each house an almoner should be appointed to collect the broken meats, and distribute them among the deserving poor, the caution is added that “by no means should such alms be given to valiant, mighty, and idle beggars and vagabonds, *such as commonly use to resort to such places.*”<sup>36</sup> But this testimony comes from prejudiced witnesses, whose interest it was to make out as strong a case against the monasteries as possible. Let us, then, look at the eulogy of the old monastic system, which was apparently written by an anonymous writer about the year 1591, and on which a modern historian of the Suppression has laid great stress. “Many of them (the monks), whose revenues were sufficient thereunto, made hospitals and lodgings within their own houses, wherein they kept a number of impotent persons

with all necessaries for them, with persons to attend upon ~~them~~, besides the great alms they gave daily at their gates to *every one* that came for it. Yea, no wayfaring person could depart without a night's lodging, meat, drink, and money, *it not being demanded from whence he or she came, and whither he could go.*"<sup>37</sup> It requires but little knowledge of human nature or experience in charitable work to discern that almsgiving so indiscriminate as that described by the eulogist was extremely likely to produce the results indicated by the injunction.

But in stating this conclusion, it is worth while adding more than one caution and limitation. In the first place, it must be clearly understood that the statement that there was much indiscriminate almsgiving through ecclesiastical agencies, and under ecclesiastical influence, by no means necessarily implies that the Church taught the doctrine of indiscriminate almsgiving. Modern writers on the organization of poor relief, led away by excessive reaction against the Roman Catholic Church, have sometimes gone so far as to maintain that the Church itself inculcated indiscriminate charity; that by fixing attention not on the good which may be done to the poor and the community, but on the benefit to the soul of the individual almsgiver, it suggested that almsgiving was equally meritorious whatever might be the character of the recipient or its effect upon him. It is not difficult to adduce a long catena of passages from the Fathers and from the canons of Councils, which declare in the most explicit fashion the duty of investigation.<sup>38</sup> S. Basil, as early as the fourth century, took care to explain that in the work of charity great experience was necessary to distinguish the greedy beggar from the truly poor. "He who gives to one who is really in need gives to God, and will of Him be rewarded; he who without distinction

gives to every beggar that runs up to him, is not really bestowing alms from compassion for need, but is tossing as it were a crust to a troublesome dog." And one of the most celebrated mediæval theologians of Paris laid down that to give to one who has no need is not only not a merit, but even a demerit.<sup>39</sup> It can fairly be argued, moreover, that the doctrine of good works cannot be made responsible for a pauperizing almsgiving; for in order that a work should be "good," it must satisfy the rules of Christian wisdom.<sup>40</sup> It must be allowed that so far as the *theory* of almsgiving is concerned, the Mediæval Church was free from the fault that has been imputed to it; but it may nevertheless be remarked that to teach the spiritual merit of almsgiving, without at the same time teaching its due limitations and exhibiting an example of careful administration, was certain to produce a want of discrimination. And it is clear from the general tenor of the literature of the later Middle Ages that if caution in the disposal of charity was preached at all, it was not insisted upon with anything like the same frequency and force as the bare duty of giving alms. We shall return to this subject in a later section.<sup>41</sup>

It has been implied in this section that it is a mistake to suppose that the dissolution of the monasteries created English pauperism; but it is necessary, even at the risk of tediousness, to point out the exact sense in which this proposition is maintained. The Dissolution rendered more apparent, and also actually increased the burden of pauperism; for the beggars and loafers who had previously managed to find a livelihood by going about from monastery to monastery, and visiting the many other agencies for distributing food and pence which will soon be described, found themselves deprived of their accustomed resources, and became more than ever clamorous and troublesome to

quiet folk: many, only too probably, perished from destitution. And then the transference of the monastery lands to private owners increased very largely the area troubled by those agrarian changes which were one great cause of distress in the sixteenth century, and which form the subject of the preceding chapter. The introduction of rack-rents, the removal from the land of customary tenants, the enclosures, the extension of sheep farming,—all these deprived a great many families of home and employment. But these changes were only parallel to those taking place on estates which had long been in private hands. They had already begun on Church lands some years before the Dissolution,<sup>42</sup> and would in all probability have been carried out sooner or later even had the Church lands remained in ecclesiastical hands; though the transition would probably have been more gradual and less ruthless. Corporations, whether religious or lay, are always slow to change their methods of managing estates; but they are usually carried along by the economic wave after a time. A somewhat parallel case may be found in the slow adoption of the system of yearly tenancy instead of long leases by the colleges of Oxford and Cambridge.

But when it is said that the Dissolution made the Poor Law necessary, what is usually meant is that the monasteries had previously furnished an adequate organization for the relief of all such distress as misfortune brought upon the labouring population. For such a theory there is no evidence at all. And the Dissolution,—for the method of which no language of condemnation can be too strong,—had at least this good result, that it abolished a number of centres of pauperization.

§ 55. There was, however, another class of institutions for the relief of distress, which followed a more excellent



way than the monasteries, and might seem to be free from the evils which resulted from their careless methods. These were the hospitals. They have been singularly neglected by modern historians, misled by the later association of the name exclusively with the care of the sick. But the hospitals of the Middle Ages were foundations not only for the reception of the sick, but also for the sheltering of destitute and enfeebled old age. To use modern language, they were both hospitals and almshouses. Some, indeed, were designed chiefly for the relief of the sick, and especially of lepers or lazars, but most were intended to include both sick and destitute; and many, like modern almshouses, were only for decrepit "bedesmen." The rules of each "house" usually established a master, or warden, two or three priests to assist him in the performance of divine offices, and a number of brethren, religious and lay, and sometimes also of sisters, to take charge of the inmates.<sup>43</sup> In many cases the beneficiaries were themselves known as the "poor brethren."<sup>43a</sup>

Institutions of this character, of every degree of magnitude, from the small cottage under one priest to the wealthy establishment rivalling in magnificence a great monastery, were scattered in hundreds all over Western Europe. There were at least four hundred and sixty charitable foundations in England: <sup>43b</sup> in York alone there were as many as sixteen at the time of the Reformation.<sup>44</sup> They were, in truth, the most characteristic form of mediæval charity; for the charity of the later Middle Ages is marked by a constant tendency to assume the form of "foundations,"—of institutions, that is to say, founded by will or deed, which assigned for specified uses the revenues derivable from specified lands or other sources.<sup>44a</sup> Of these foundations, the hospitals were by far the most important, and they formed a connecting chain between the great monasteries and private charity.

While some of them, from the number and comfort of the clergy attached to them, resembled capitular or conventual bodies, many, where the revenue was but scanty, and the priest in charge was bound to pray for the soul of the founder, were hardly distinguishable from chantries.

And now what became of them? Here, again, we may conveniently approach the question by considering Ratzinger's conclusions as to the Continent. In Germany, he tells us, the usual course of events, long before the end of the Middle Ages, was as follows: the hospital, intended originally for the poor, came to be looked upon by its clerical administrators as a source of income, and at last was regarded very much in the same light as a rich benefice.<sup>45</sup> The descent was the more facile because from the twelfth century onward most of the hospitals were exempted from the control of their diocesan.<sup>46</sup> Those hospitals which were subject to the General of the Order of the Holy Ghost were regularly bestowed upon Roman prelates, to be held *in commendam*.<sup>47</sup> In France things were even worse. "The whole history of the French hospitals in the thirteenth and fourteenth centuries is one of constant abuse. In some cases this was due to the usurpation of the heads of the houses, who dissipated the property of the hospitals, or used them for their own advantage; who left the attendants without means of support, and refused to admit the sick and hungry. In other instances it was the attendants who wasted the revenue in idleness and dissipation."<sup>48</sup> It was, therefore, "fortunate for suffering humanity, and the best thing that could happen for the institutions," that in the fourteenth and fifteenth centuries such of them as still survived fell into the hands of the burgesses of the several towns, and usually under the direction of the magistrates; an arrangement which was confirmed by an ordinance of Louis XI. in 1463.<sup>49</sup>

There is good reason to believe that the progress of events in England resembled that in the rest of Western Europe in the history of hospitals as well as in that of monasteries. At first they did their work well. The hold which they thus acquired upon popular sympathy brought them a stream of fresh endowments, each, as a rule, small in itself, but contributing to make many of the foundations exceedingly wealthy, especially in the larger cities. For a long time almost every well-to-do citizen of London remembered the hospitals in his will; and, in the fourteenth century, bequests to each of the seven or more considerable hospitals became a part of the "common form" of testament, side by side with bequests to "the old and new work of S. Paul's, the five orders of friars, the prisoners in Newgate and the Marshalsea, and every anchorite in London and the suburbs."<sup>50</sup> But with wealth came decay; and after 1400 the stream of benefactions begins perceptibly to dry up. The condition of things in 1414 is thus described by a statute of that year: "Many hospitals, founded as well by the noble kings of this realm, and lords and ladies, both spiritual and temporal, as well as by others of divers estates, to the honour of God and of His glorious Mother, in aid and merit of the souls of the said founders, to the which hospitals the same founders have given largely of their moveable goods for the buildings of the same, and largely also of their lands and tenements wherewith to sustain old men and women, lazars, men and women out of their senses and memories, poor women with child, and other poor persons, and there to relieve, nourish, and refresh them, [many such hospitals] are now in most part decayed, and the goods and profits of the same by divers persons, both spiritual and temporal, withdrawn and spent in other uses, whereby many men and women have died in great misery, for default of aid, living,

and succour." It was accordingly enacted that the ordinaries should "inquire of the manner of the foundation, estate, and governance of the same, . . . and upon that make correction and reformation."<sup>51</sup> But this enactment scarcely checked the evil. We find frequent instances during the course of the next century and a quarter, in which the revenues of hospitals were monopolized, wasted, and alienated by their administrators. Even where there was no open scandal, and a certain number of the sick or destitute continued to be cared for, there was often a great disproportion between, on the one hand, the income of the master,—and, although to a much smaller extent, of the other priests on the foundation,—and, on the other, the expenditure on the proper objects of the charity.<sup>51a</sup> The well-known pamphlet, *A Supplication for the Beggars*, written about 1529, scurrilous as it was, was probably not far wrong. "What remedy," it says, speaking on behalf of the beggars, "to relieve us, your poor sick, lame, and sore bedemen? To make many hospitals for the relief of the poor people? Nay, truly. The more the worse; for ever the fat of the whole foundation hangeth on the priests' beards."<sup>52</sup>

This is an unnecessarily offensive way of putting it: but the position of affairs may be illustrated from a modern instance. Readers of Trollope's *Warden* may remember that, until certain recent reforms, there were still in the ancient institution known as Hiram's Hospital the twelve bedesmen for whom the founder's will had provided, receiving the one shilling and fourpence to which the will entitled them. They may remember also that the revenue of the foundation had so increased that the Warden received the comfortable annual income of £800. Time had brought about something very different from the founder's intention. The charity thus provided did but little to meet the grave

needs of the poor round about; and yet it was possible for a man of delicate honour and probity to enjoy the comforts of the Warden's house without a qualm of conscience. It was doubtless much the same with many of the wardens of hospitals in the sixteenth century. "Hospitals," says Fuller, "generally have the rickets, whose heads, their Masters, grow over-great and rich, whilst their poor bodies pine away and consume."<sup>52a</sup> But just as the sudden abolition of Hiram's Hospital, while it would not have appreciably affected the sum-total of destitution in that part of England, would, nevertheless, have thrown upon the world the little group of bedesmen there sheltered; so the seizure of many of the hospitals at the Reformation certainly added to the numbers of those without means of support. "Although," as another contemporary pamphlet puts it, "the sturdy beggars," i.e. the clergy, "got all the devotion of the good charitable people from them, yet had the poor impotent creatures some relief of their scraps."<sup>53</sup> The same impression is produced by the *Epigrams* of the rhyming satirist, Crowley:—

"A merchant, that long time  
Had been in strange lands,  
Returned to his country,  
Which in Europe stands;  
And, in his return,  
His way lay to pass  
By a Spittlehouse, not far from  
Where his dwelling-house was.  
He looked for this hospital,  
But none could he see;  
For a lordly house was built  
Where the hospital should be.  
Good Lord! (said this merchant),  
Is my country so wealthy  
That the very beggars' houses  
Be built so gorgeously?"

Then by the wayside  
Him chanced to see  
A poor man that craved  
Of him for charity.  
Why (quoth this merchant)  
What meaneth this thing?  
Do ye beg by the way,  
And have a house for a king?  
Alas! sir (quoth the poor man),  
We are all turned out,  
And lie and die in corners,  
Here and there about.”<sup>54</sup>

It must, however, be noticed that, so far as our evidence would seem to indicate, most of the hospitals that were doing good work in the relief of sickness and destitution were spared at the Dissolution,<sup>55</sup> and handed over in many cases—in this following French precedents—to the municipal authorities. This is a point to which we shall return later.

While many of the “spitals” did but little good in the way of what, to use a modern phrase, we may call “indoor relief,” their management was attended with many other grave evils, besides the misappropriation of revenue. It was their practice to send “proctors,” or “fraters,” over the country, to beg for contributions; and these agents were only too commonly “sturdy lubbers,” who lived on the fat of the land, and scandalized decent people by their behaviour.<sup>56</sup> They were so numerous, and their letters of commission so easily forged, that there grew up a swarm of fraudulent imitators.<sup>57</sup> Then, again, the larger hospitals offered lodging and food to all the apparently needy who took the trouble to apply; and although there may have been some attempt to distinguish those “living in truandise,” it was not possible to make any careful inquiry into their circumstances. Vagabonds who lived by begging went

"from spital to spital, prowling and poaching for lumps of bread and meat."<sup>58</sup> Around the gates of S. Bartholomew and other great foundations gathered swarms of the miserably shiftless and idle, decrepit, halt, and maimed, covered with rags and filth, like those still to be seen around the entrance to many a Continental cathedral. Thus, then, the hospitals, while in one direction they did little good, in other directions did much harm, and rendered necessary some wiser system.

§ 56. Closely connected with the relief afforded by hospitals was that furnished to their own members by the crafts and fraternities. This close connection,—the fact that the philanthropic work of the various religious or industrial associations was of much the same character as that of other agencies around them,—has been obscured by the prevalent habit of speaking of the mediæval gilds as if they stood apart from the rest of mediæval life. Many of the religious gilds,—most, probably, of those in the villages and smaller country towns,—did not profess to relieve bodily distress.<sup>59</sup> The majority, however, of the religious gilds in the towns were accustomed to give occasional aid to members in poverty. In some few isolated instances members were permitted to borrow from the common box enough to enable them to make a fresh start in business.<sup>60</sup> In many gilds indigent members were assigned a weekly pension sufficient for their maintenance. But in most cases the aid given was very small; a penny from each member at each "morn-ing-speech," *i.e.* three or four times a year, amounting perhaps in all to some twelve shillings in the course of the year; or in other instances three or four pence a week.<sup>61</sup> Nor were these payments regarded as something the recipients could claim in return for their own subscriptions, like the modern "sick benefit" of a friendly society. Their



subscriptions had been primarily intended for other purposes : in the case of the fraternities, to provide altar lights, funeral masses, or the services of priests;<sup>62</sup> in the case of the craft societies, to raise the ferm due to the king, or to pay for the cost of pageants. The relief to poor members was very frequently provided by means of a special contribution levied on the members for each particular case of need, from a farthing or halfpenny a week in the wealthier gilds, down to a penny a year in the poorer.<sup>63</sup> Usually the assistance was regarded as so much almsgiving,<sup>64</sup> and was bestowed, not so much for the removal of distress, — though this motive could hardly be altogether absent, — as to secure spiritual benefits to the givers.

In those craft associations which had not grown out of religious fraternities, it is doubtful if at first there was any relief of poor members. Such relief was, indeed, to some extent furnished, as time went on, by bequests for that special purpose.<sup>65</sup> But there was seldom any permanent endowment: as a rule, the bequest was of a definite sum, to be distributed upon the testator's death. And even these bequests were sometimes limited to the "householders" of the mystery, excluding the journeymen,<sup>66</sup> or even to the still smaller inner body known as the livery.<sup>67</sup>

The inadequacy of such meagre doles and chance bequests could not fail to be realized with the increase of the industrial and trading population. Accordingly the various associations began to provide lodging for destitute members; and from hiring a couple of cottages they proceeded, with the help of legacies for the purpose, to erect almshouses with accommodation for a dozen or more members. These almshouses were sometimes known as hospitals: they were placed under a master, and furnished with a staff of priests, and, indeed, differed but little in their management from

other hospitals, except that they were probably administered more thriftily. In the hospital of S. Thomas at York, which was connected with the important fraternity of Corpus Christi, there were "kept yearly ten poor folks, having each of them towards their living by the year £3 6s. 8d.; and further they do find eight beds for poor people being strangers."<sup>68</sup> Sometimes a great mistery would purchase the lands and buildings of some small and insufficiently endowed hospital, and make use of it for the reception of their own decayed members. York furnishes an example of this also, in the mistery of merchants and its hospital.<sup>69</sup>

Beginning, probably, with the religious gilds,<sup>70</sup> the practice of maintaining almshouses spread to the crafts. During the course of the fifteenth century all the more important companies in London erected such establishments.<sup>71</sup> The inmates appear at first to have been given nothing but shelter; but further bequests enabled them to receive a regular weekly allowance. Here, again, we see the tendency of mediæval philanthropy towards the creation of endowed foundations. Hospitals had been the characteristic form of poor relief in the fourteenth century; in the fifteenth they survive only on the benefactions of the past, and the stream of charity takes the direction of the foundation of almshouses,—either unconnected with any other corporate body, such as those founded by Whittington, or, more usually, as we have seen, under the control of a wealthy religious gild or of some powerful company. And as with the hospitals so with the almshouses. There was much chicanery and violence attending the suppression of the religious fraternities, and doubtless many of the smaller almshouses attached to religious gilds were swallowed up by the greed of the courtiers. But there is reason to believe that almost every almshouse

of any magnitude,—almost all whose suppression could in any real sense have swollen the flood of pauperism,—were saved from destruction, even if not without a hard struggle.<sup>72</sup> In York, for instance, it was ordered in the third year of Edward VI. that “the Lord Mayor for the time being should be chosen yearly master of the hospital” of the Corpus Christi gild, and that “the poor folks and beds should be maintained, found, and used in the hospital as beforetime had been accustomed.”<sup>73</sup> The hospital of the Merchants’ Company in like manner “was dissolved 3 Edward VI., and the stipend of the priest, as also the lands granted for the maintaining of obits, lights and lamps here, was, by Act of Parliament, given to the king; but,” added the historian of York, writing last century, “the hospital and chapel are still kept up by the Fellowship of the Merchant Adventurers of this city, and ten poor widows maintained.”<sup>74</sup> In this, as in many other matters, there was far less breach of continuity at the Reformation than is commonly supposed. The foundation of almshouses continued to be a favourite form of charity for a couple of centuries; and they were so numerous that Fuller, issuing his *Worthies* in 1662, thought it worth while to draw up a formal statement of the arguments for and against their maintenance. We can hardly suppose they would have continued to be founded throughout the sixteenth century had there been a wholesale confiscation in the reign of Edward VI.

Some few of the gilds in the villages and country towns had possessed endowments in land; and of these, explain it as we may, a considerable part was left after the Reformation in the hands of the authorities of the several towns and villages. These formed the principal portion of the “townlands” of the later period, and their revenues continued to be administered for charitable purposes by feoffees or

trustees.<sup>75</sup> The church-house or gild-hall often became the parish workhouse.<sup>76</sup>

Moreover, so far as concerns the weekly or periodical doles given by the smaller fraternities, the fact that they were, as a rule, furnished by contributions for each particular case, and not from endowments, shows that the seizure of endowments, where it did take place, could not have affected the gilds in the way commonly supposed. It did not, that is to say, "deprive the friendly societies of the Middle Ages of the funds wherewith they relieved distress;" for the sufficient reason that as a rule no such "funds" existed; at most it led to the dissolution of the fraternities, and the consequent discontinuance of this particular form of almsgiving. Thus, again, we arrive at the same conclusion, that the new Poor Law was called for, not in order to remedy the evils produced by the abolition,—so far, indeed, as it took place,—of the charitable institutions of the Middle Ages, but to cope with evils which had grown up *in spite of* those institutions. This will become more evident when we have looked at the legislation on the subject, and the parallel development in the rest of Western Europe.

§ 57. It remains now only to speak of such direct assistance to the poor by private charity as did not pass through the hands of corporate bodies. There was, of course, much almsgiving of the more obvious kind,—more, certainly, than in our own day, owing to the emphasis which the Church laid upon works of mercy, and to the almost complete absence of the insight, which is rare even now, into the consequences of indiscriminate charity. With great prelates and nobles this almsgiving assumed huge proportions, and rivalled that of the monasteries and hospitals. They often provided food daily for scores and even hundreds of persons, with double or triple alms on the great festivals; and many of them had

their "dealing days" thrice a week, when doles were distributed at their gates to all who applied. Stowe tells us that "Edward, late Earl of Derby," fed "aged persons twice every day, sixty and odd, besides all comers thrice a week;" that West, Bishop of Ely, "daily gave at his gates, besides bread and drink, warm meat to two hundred poor people;" and he adds, "I myself in that declining time of charity have oft seen at the Lord Cromwell's gate in London more than two hundred persons served twice every day with bread, meat, and drink sufficient; for he observed that ancient and charitable custom, as all prelates, noblemen, or men of honour and worship, his predecessors, had done before him."<sup>77</sup> Almsgiving of this kind must have had all the evil consequences that attended the charity of the monasteries.

Englishmen of the middle classes, however, then as now, usually reserved their more considerable charities until their death. Bequests for various works of mercy form a very common feature in mediæval wills; although the thrifty testators occasionally tried to satisfy their family covetousness and their spiritual interests at the same time by leaving their charitable legacies in remainder so distant that it were hardly likely ever to be reached. The charity most beneficial was probably that which took the form of bequests by wealthy landlords to their poor tenants. These would aid the small copyholder or customary tenant to meet the casualties of bad seasons without swelling the ranks of landless labourers, or the still more dangerous hordes of idle vagrants. Such bequests are found as late as the Reformation period; but they were more frequent in the early part of the fifteenth century. In one case it was accompanied by an expression of the desire on the testator's part that if he had done wrong to any of his tenants, or "mistake" their goods, restoration should be made by his executors.<sup>78</sup>

Language like this throws considerable light on the relations between the cultivating classes and their lords.

Sometimes the bequest was for the education of poor children, or the marriage of portionless girls;<sup>79</sup> and this was also a form of charity that could do little harm. Sometimes wealthy citizens left money to be distributed among the poor of the country parishes whence they had come to London;<sup>80</sup> and, as the circumstances of his parishioners would usually be known to the parson who distributed the relief, it was at any rate possible to avoid pauperizing the people. The same is true to a less extent when the bequest was for the poor of some particular city parish.<sup>81</sup> And if the dole was to have none of these safeguards, it was well that it should take the form of clothing or fuel; both plans were often adopted, the latter chiefly towards the end of the period.<sup>82</sup> As it was impossible that the mischief of indiscriminate charity should not be borne in upon shrewd observers here and there, many testators tried to obtain a guarantee of desert by limiting their alms to the *bedridden* poor.<sup>83</sup>

But these were not the favourite forms of bequest. It was far more usual for the testator to leave a sum of money to be distributed to the poor without any sort of condition; and it was customary to direct that these alms should be distributed on the day of the funeral—"at the *dirige*," or at a commemorative service at the end of a month or year—"the month's mind," or "year's mind," as the case might be.<sup>84</sup> A thousand halfpenny loaves; a penny to each of a hundred men; three pence to three hundred, and meat and drink enow; are among the examples that first come to hand.<sup>85</sup> Frequently testators went beyond this, and offered alms to all who cared to come for them. A testator at Bury, in 1463, thought it worth while to mention that he would "no common

dole have;" what he desired was that every poor man and woman should have a penny, and two children a penny, but only on condition they were present at his solemn *dirige*, "to pray for" him, and this "at the discretion of his executors."<sup>86</sup>

We cannot glance through a volume of mediæval wills without noticing that the predominant motive in making charitable bequests was to secure an advantage in the next world. The almsgiving itself would be added, it was thought, to the sum of the testator's good works; and he would benefit also by the prayers of the recipients, which, indeed, were frequently expressly stipulated for. There can be no question that such almsgiving was sure to be haphazard and demoralizing. Whatever trained theologians may have thought, in the opinion of most people any gift to a person who seemed to be poor was an alms, and every almsgiving was for the soul's good. We can guess what the ordinary man thought, when we find, in 1550, a divine like Crowley, a man not without some power of observation, after describing the tricks of beggars who counterfeited divers maladies, telling his readers—

"Yet cease not to give to all  
Without any regard,  
Though the beggars be wicked  
Thou shalt have thy reward."<sup>87</sup>

What the consequences were are depicted in a story which, if invented, must at any rate have been intended to represent a probable occurrence. At the burial of "a man of much worship in Kent, there was such a number of beggars, besides poor householders dwelling thereabouts, that unneth they might lie or stand about the house. Then was there prepared for them a great and large barn, and a great fat ox sod out in frumenty for them, with bread and drink abun-



dantly . . . and every person had twopence, for such was the dole. When night approached, the poor householders repaired to their houses; the other wayfaring bold beggars remained all night in the barn; and the same barn being searched with light in the night, they told fourteen score men and women." Thus . . . "the burial was turned to bousing, fasting to feasting . . . and lamenting to lechery."<sup>88</sup> It is altogether mistaken to suppose, as even so learned a historian as Döllinger did,<sup>89</sup> that the Reformation first created a race of beggars in England.

A parallel, in many respects very close, to mediæval conditions in Western Europe may be found to-day in Turkey. There are pious foundations, or *marets*, which seem to correspond roughly to the hospitals and chantries of the Middle Ages, and, like them, "they give countenance to, or create, a large amount of mendicancy." "Charity forms one of the five pillars of Mohametanism. Among the Moslems the word is understood to mean almsgiving. . . . Probably every Turk would believe it to be a sin to forbid a man, woman, or child to beg." And, accordingly, "most of the almsgiving is indiscriminate," and "there are a large number of professional beggars." It is, nevertheless, true of Turkey, as it was true of England in the middle of the sixteenth century, that in spite of all the charity so carelessly scattered, "there exists a terrible amount of unrelieved poverty."<sup>90</sup>

§ 58. The conclusions to which we have thus arrived from an examination of the various agencies for the relief of distress put us in a position the better to understand the legislation of the period; and this legislation still further illustrates the character of mediæval poverty. The later Poor Law grew out of the long series of Statutes of Labourers, which began in 1350; it used the phraseology of the labour statutes, and it was administered by the same magistrates,

the justices of the peace. And yet it differed from them by the introduction of such entirely new principles that it must be regarded as having its real commencement in the act of 1536, and these new principles were called for by the appearance of new conditions.

For our present purpose the significance of the Statutes of Labourers may be briefly stated thus: they aimed at securing an adequate supply of agricultural labour wherever it was needed, and this at the wages current before the Great Mortality. For this end, the Ordinance of 1349,—commonly referred to in later times as the first “Statute of Labourers,”—had proclaimed that all persons able to labour, *and without other means of support*, should serve those who had need of them at the accustomed rates; they were not to wander about, but must be content to work in their own “town” (*i.e.* township).<sup>91</sup> It went on to declare, in order to prevent vagrancy, that persons giving alms to sturdy beggars (*i.e.* beggars strong enough to work) should be punished by imprisonment. It may be well to quote the clause in full: “Because that many valiant beggars (*validi mendicantes*) as long as they may live of begging, do refuse to labour, giving themselves to idleness and vice, and sometimes to theft and other abominations, none . . . shall, under the colour of pity or alms, give anything to such, . . . so that thereby they may be compelled to labour for their necessary living.”<sup>92</sup> The statute of 1360 enacted that “labourers and artificers that absent themselves out of their services, in another town (*i.e.* township) or another county,”—that is, who had run away from their employers,—might be recovered by them, and, at the discretion of the justices, branded on the forehead.<sup>93</sup> In 1376 the Commons petitioned that vagrant beggars should be imprisoned till they promised to return home to work, and that it should be forbidden to

give alms to persons able to labour.<sup>94</sup> In 1388 it was enacted that "no servant or labourer . . . shall depart at the end of his term out of the hundred . . . where he is dwelling, to serve or dwell 'elsewhere . . . unless he bring a letter patent, containing the cause of his going, and the time of his term, if he ought to return."<sup>95</sup> It is implied that this letter patent is only to be given if the labourer can prove a definite engagement in some other place: "It is to be remembered that a servant or labourer may freely depart out of his service, at the end of his term, and to serve in another place, *so that he be in a certainty with whom*, and shall have such a letter."<sup>96</sup> Such a definite engagement, it is obvious, the labourer would seldom be able to obtain more than a few miles away from his native village. The object of the legislature is rendered still more apparent by the clauses which enacted that artificers employed in crafts whereof "a man hath no great need in harvest time,"—such, perhaps, as the village weaver or carpenter,—"shall be compelled to serve in harvest, to cut, gather, and bring in corn," and that children who had served in agriculture until twelve years of age should not be put to any trade.<sup>97</sup> There was the same attempt as before to prevent vagrancy; beggars able to work are to be treated like wandering labourers, and put in the stocks. But in this act of 1388 we find the recognition of an additional element in the problem. What was to be done with "impotent beggars," beggars really unable to work? The legislators fell back on the idea of local responsibility: impotent beggars were to remain where they were at the passing of the act, and if the inhabitants of those places were neither willing nor able to maintain them they were to be taken to other towns within the hundred, or to the place of their birth, and there they were to abide for the rest of their lives.<sup>98</sup> The provision was

vaguely stated, and no machinery was provided for carrying it out; but it may fairly be looked upon as expressing the hope of the legislators that the charity of the parish clergy, of the monasteries, the hospitals, and private persons would provide in their own neighbourhood for the destitute who were really unable to labour. Its purpose was not to make a new provision for such persons, but to prevent the encouragement of vagrancy by the giving of alms to the apparently impotent poor outside their own neighbourhood.

The law as it had thus grown up in the years following the Black Death remained unchanged for a century and a half. The additional statutes which were passed from time to time were but attempts in slightly different ways to arrive at the same results—to force men to work who could work, and that in their own neighbourhood, and also to compel beggars who could not work to remain at home.<sup>99</sup> The last legislative effort of this kind was as late as 1530,<sup>100</sup> when, as we shall see later, conditions had greatly changed, and the old law urgently needed to be supplemented by new methods.

The civic ordinances of the period are of the same purport. A London proclamation of 1359, after declaring that “many men and women of divers counties, who might work to the help of the common people,” had resorted to London, and there went about begging, orders them to leave the city at once, on pain of being put into the stocks;<sup>101</sup> and in 1375 it was proclaimed that “no one who by handicraft or the labour of his body can earn his living, shall counterfeit the begging poor,” *i.e.* the impotent.<sup>102</sup>

The idea upon which all this legislation rested was that there was sufficient employment at customary or “reasonable” wages in his own town or village, or in the country immediately around, for every able-bodied man who was willing to work. There is good reason for believing that this idea

corresponded with the circumstances of the time, at least until after the middle of the fifteenth century. It is apparent on the face of the statutes that they refer primarily to rural life: the development of trade and industry in the towns at this period was so rapid that the only fear was lest it should drain the country of its labour-power. And in the country districts, though the life of the small customary tenants and cottagers was a hard and sordid one, it was nevertheless free from some of the dangers that now beset many country labourers. Poor harvests might make it difficult to get together the lord's rent, or to furnish the sum required by some harsh amercement; the labourer would not find absolutely regular employment, for the demand for his services varied with the seasons; pestilence would visit the country-side from time to time, and a general dearth bring the poorer classes near starvation. But there was no long-continued inability to find employment. Every man could, in the course of a year, earn a year's sustenance. The problem of the unemployed, as it now presents itself, had not yet arisen.

The interpretation of the provisions concerning vagrancy in the proclamations and statutes from 1349 onward is a matter of some difficulty. On the one hand we find the government and legislature speaking throughout in the language of moral indignation: labourers, they tell us, prefer to beg rather than work for their living; sloth and idleness are increasing among them.<sup>103</sup> It must be observed, however, that what the government was aiming at, and avowedly aiming at, was not only at obtaining labour, but also at obtaining it at the old rates. A labourer that stood out for higher wages was as much disliked as one that tried to escape work altogether and live upon alms;<sup>104</sup> and we cannot help remembering that the parliaments which passed

these measures, and also in later years compelled Richard II. to withdraw his charters of manumission, were parliaments of landlords. It is possible, therefore, to interpret the Statutes of Labourers in widely different ways. They may be regarded as a part of a noble organization of labour which shames our modern competitive chaos;<sup>105</sup> or as a deliberate and hypocritical attempt in the interest of employers of labour to prevent the labourers from taking advantage of the natural forces of supply and demand.<sup>106</sup> The "sturdy beggar" was, in one view, an idle rascal who deserved to be forced to work; in the other a manly and independent rustic who was merely seeking the best market for his labour.

Neither theory would seem to meet the facts of the case. The truth would seem to lie between them, and indeed to incline rather to the side of the government. This, at any rate, is the conclusion to which the literature of the time appears to lead us.<sup>107</sup> William Langland, the author of *Piers Plowman*, was certainly a man whose sympathies were with honest labour; and he frequently goes out of his way to rebuke the lords of manors for their exactions.<sup>108</sup> But we should also gather from him that a certain reckless idleness was a prevalent vice in his day among the lower classes. One of his best-known episodes is that in which the pilgrims, who have helped him to plough his half-acre, refuse to go on with their work.

"At high prime Perkin · let the plough stand  
While that he oversaw himself · whoso best wrought  
He should be hired thereafter · when harvest time came."

The men sit and drink and sing, with no disposition to return to work. Perkin, in wrath, tells them that if they will not labour, "shall no grain that groweth glad you at need," and they will die for dole.<sup>109</sup>

The boundary-line between virtue and vice was not so sharply drawn then as now. Labour, though there was plenty of it at particular seasons, was, after all, irregular ; and there was much to discourage steady industry. The line which separated the enterprising labourer wandering in search of high wages from the lazy vagabond was one very easy to cross ; and the circumstances of the time enormously increased the temptation. With the indiscriminate doles to be found at the doors of monasteries, and of the mansions of great lords, and the general haphazard charity which current religious notions encouraged, it was not very difficult to live without labour. The Black Death, one cannot help thinking, did more harm to the morality of the people than good to their material prospects. It shook them out of the habits of their lives and the customs of their village ; it suggested to them that higher wages could be obtained if they did but refuse to work at the usual rates ; and a few weeks of idleness, with their hands against all the constituted authorities, and the easy object-lesson of lavish almsgiving ever before them, would go far to turn honest men into vagrants.

§ 59. When we take a general survey of such relief of the poor as was to be found in the Middle Ages, we find,—as the preceding sections have sufficiently shown,—that it was marked by the following characteristics. No attempt was made by the State as a whole, or by any secular public authority to relieve distress. The work was left entirely to the Church, and to the action of religious motives upon the minds of individuals. If it had ever been attempted to organize charity in a systematic way, making the parish priest the “relieving-officer” for his parish, and the tithes the fund whence aid was to be furnished, that attempt had altogether broken down. Well-nigh all the assistance that was given to the poor was in the form of almsgiving ; alms-



giving by magnates, ecclesiastical and lay, by monasteries, by hospitals, by gilds, by private persons; and almsgiving that was in the vast majority of cases practically indiscriminate, whatever it may have been in theory. No attempt was made by any public authority, secular or ecclesiastical, to take a comprehensive view of the situation, and to co-ordinate the various agencies. The reckless distribution of doles cannot have failed to exercise a pauperizing influence in many localities, by rendering it easy for those who did not care to work to live without. But it has been well observed that if the poor relief of the Middle Ages in some directions did too much, in others it did too little.<sup>110</sup> Voluntary charity always has the defect of being more abundant in districts which need it least, and least abundant where there is most want. The towns get more than their share; the fertile and prosperous districts have their richly endowed foundations; while the unhealthy or barren regions are left unprovided for. Thus, in Italy, where mediæval conditions have been retained more completely than in any other country, owing to the power of the Church, districts containing scarcely a fourth of the population received until lately three-fourths of the revenue of charitable endowments; while, to give a further illustration, the healthier districts have most of the hospitals (in the modern sense of the term), and those constantly troubled by malaria and pellagra scarcely any.<sup>111</sup> No doubt the same condition of things existed in England. Shameless beggars who were ready to wander from place to place in search of alms had an easy life: the honest hardworking poor, who were visited by misfortune and unable or afraid to leave their homes, would often find no relief at hand.

Genuine distress among the deserving poor might, therefore, very well be found side by side with an ever-increasing

swarm of demoralized vagrants. Yet all mediæval legislation aimed only at lessening the latter evil, without touching the former. It was a vagrancy law, and not a poor law. And there was one essential weakness even in the harshest of the vagrancy laws. They prohibited almsgiving to sturdy beggars, but never to the impotent poor.<sup>112</sup> With the current ideas as to the meritorious character of alms, it would have seemed impious to forbid Christians to earn the reward of charity. But so long as almsgiving to the impotent was regarded as a virtue, it was certain that many would obtain relief who were not impotent. It could hardly be expected that the ordinary charitably disposed person should institute a searching inquiry into the ailments of the crowd of petitioners he would meet at every turn.

The progress to sounder ideas was very slow, and first shows itself in Western Europe in any marked way towards the end of the fifteenth century. It is clear that the most crying need was to put an end to the old pauperizing system of indiscriminate charity. This could only be done if the relief of the poor were transferred to public authorities, who were capable of investigating the character of each case, and if private charity, for a time at any rate, were restricted within narrow bounds. The two principles which needed to be recognized were : the duty of the State to undertake or supervise the relief of the poor, and the expediency of a stringent prohibition of begging (whether by sturdy or impotent beggars) from individuals.

The first expression of these principles would seem to have come from the Nominalist theologians in the last days of scholasticism. The Nominalists were inclined to magnify the functions of the State, as compared with the Church; and the long suppression of their teaching in the University of Paris probably disposed them, when they did at last

obtain academic predominance, to call in question many of the generally accepted principles of preceding centuries.<sup>113</sup> Of these Paris Nominalists, the most distinguished in the early years of the sixteenth century was the Scotchman John Major. In other directions Major showed himself open to the lessons of practical life; thus he stood almost alone among distinguished theologians in accepting Eck's bold attempt to justify the taking of "interest," in its modern sense.<sup>114</sup> And in his *Commentary on the Sentences of Peter Lombard*, published apparently before 1516,<sup>115</sup> Major had thus expressed himself: "If the Prince or Community should decree that there should be no beggar in the country, and should provide for the impotent, the action would be praiseworthy and lawful."<sup>116</sup> How great an impression was created by this utterance we may discern from the use which the magistrates of Ypres made of it in the appeal to the Sorbonne to which we shall shortly refer. "That the liberty of public begging can be restrained by the laws of a community is clearly shown," they say, "by that perfect theologian, and, beyond all question, most learned master, John Major."<sup>117</sup>

The principle which must underlie the work of reform could hardly have been stated more pointedly than by this representative of one of the last phases of scholasticism. But within some ten or a dozen years, the subject which Major had treated only incidentally, suddenly attracted the special attention of theologians and publicists and statesmen in every European country. It is easy to see how this came to be the case with the Protestant leaders. Their opposition to the doctrine of meritorious works naturally led them to consider the question of almsgiving, and their hostility to the existing ecclesiastical system sharpened their insight unto the abuses to which it had led. On the other hand, the new humanist scholars, even if they con-

tinued to adhere to the old Church system, were likely to take a much more independent view of the problem of poor relief than the theologians of the previous generation; and, as we shall see, a movement towards reform came from what may be called the liberal Catholic side at exactly the same time as from the Protestant side. And this development among theologians would seem to have been stimulated by a third force, the disposition on the part of the magistrates of the great cities to bring the matter within the sphere of municipal duties. A few particulars under each of these heads will be sufficient for the present purpose, which is to illustrate the general condition of European thought at the time when the English Poor Law began to form itself.

In his manifesto *To the Christian Nobility of the German Nation*, issued in 1520, Luther declared that one of the greatest needs of the time was the total abolition of mendicancy. "It would be an easy regulation to introduce, if we have sufficient courage and earnestness, that every town should provide for its own poor people. Each town could maintain its own; . . . and it could discover which were truly poor. There must be an administrator or guardian, who shall know all the poor, and who shall inform the council or the parson of what he has need."<sup>118</sup>

So, also, in the *Regulation of a Common Chest*, which was drawn up by Luther in 1523, and became the basis of a widespread reform in Protestant Germany, the leading ideas were the same. "Begging is to be rigidly prohibited; all who are not old and weak shall work; no beggars are to be permitted to stay who do not belong to the parish. Poor householders who have honourably laboured at their craft or in agriculture, shall, if they can find no other support, be given loans, without interest, from the common chest; and this aid shall be given to

them without return, if they are really unable to restore it. The income of the chest shall be composed of the revenues of ecclesiastical estates, of free contributions, and, if necessary, of an assessment upon resident citizens, and a small poll-tax upon servants and journeymen. The administration shall be in the hands of elected citizens.”<sup>119</sup> The extent to which this ideal was carried out, and the causes of its partial failure, are questions which need not now detain us.<sup>120</sup>

In the reform measures introduced by the city council in 1525, at Zürich, under the advice of Zwingli, we trace the influence both of the new ecclesiastical movement and of the tendency of the civic governments to extend their functions. Every kind of begging was strictly prohibited. Poor strangers might pass through the town, but they must nowhere beg. They would be given a bowl of soup and a piece of bread, and must then pass on. Only the sick and enfeebled should receive permanent support, either in special institutions or by food given in their own homes; and their cases should be investigated by the pastor and a pious layman.<sup>121</sup>

Let us now turn to a very different character, the Catholic humanist, Vives, whose treatise *On the Relief of the Poor* (*De Subventionem Pauperum*) was written in 1525, and printed in 1526.<sup>122</sup> This is a work of peculiar interest for our purpose, for several reasons. It is a distinct and substantial treatise on this one subject,—a proof of growing public interest. It was speedily translated into Spanish, Italian, and French,<sup>123</sup>—another proof of the very general desire for some sort of guidance, as well as an evidence of the book’s own popularity. It was dedicated to the magistracy of Bruges, who had suggested the treatise by applying to Vives for advice; it was therefore written with a practical purpose. In the last place, the treatise was composed while Vives,

a Spaniard himself by birth, was residing at the court of Henry VIII. (1524-1527). No doubt the matter was the subject of many a discussion between Vives and the English theologians and officials among whom he moved. It is worth while, therefore, noticing somewhat carefully the contents of his treatise. It is divided into two books, dealing respectively with private and public charity. The first confines itself to mere generalities; and it is the second which is alone of importance. He begins with impressing upon the public authorities that it is their duty, in the interest of the community, to see that the destitute are properly provided for. He points out, no doubt under the guidance of Aristotle, that extreme inequality of possessions was likely to lead to rebellion; he adds,—what every great modern city suggests,—that the slums are centres of infection and a constant source of moral contamination. He then proceeds to sketch a new poor law, taking as the foundation for it a division of destitute persons into three classes—(1) those sheltered in hospitals and almshouses, (2) homeless beggars, and (3) the honest and shamefaced poor abiding in their own houses. It may be noticed in passing that this classification of the destitute is substantially the same as that which was afterwards made the basis of the measures of Ridley and his London committee under Edward VI.<sup>123a</sup> Vives goes on to insist on the need for an accurate census of the destitute. For this purpose the magistrates should visit all charitable institutions, and secure an accurate return of their financial position, as well as a list of the inmates and the reason for their reception in each case. Two “senators” should also be appointed in every parish to visit poor householders and investigate their condition; and a list should be drawn up of all homeless beggars, who should all be examined by physicians to ascertain which of them were really unable

to labour. The treatment of these diverse classes should be guided by two great principles: all should be made to work who were at all fit for it; and begging should be absolutely forbidden. For those who were unable to work, a refuge should be found in the hospitals and almshouses. But before this could be done the hospitals and almshouses must themselves be reformed. All persons capable of work should be turned out; unless they had, unfortunately, a legal claim based on relationship to the founder, in which case some employment should be found for them within the establishment. In the hospitals, all the sick should receive medical help; the insane should be placed in separate buildings; the blind should be given some light work. On the education of the children of the poor, Vives lays great stress, as the one means of securing their moral improvement; and he urges the town to be generous in the provision it makes for this purpose. As to adult beggars who were strong enough to work, only those were to be permitted to remain who belonged to the town; persons from elsewhere were to be sent home with road-money in their hands; and for those who did remain, employment must somehow or other be provided. Some could be occupied in public works: ruined artisans might be found places as journeymen, or assisted once more to set up in business. For young people there would certainly be no difficulty in finding remunerative employment, for the silk weavers were crying out for additional labour. If they could be provided for in none of these ways, it would be better to place them in an almshouse for a time than allow them to beg in the streets. Poor householders, however, who were ready and anxious to work, but for whom sufficient employment could not be obtained, might be given some little pecuniary assistance in their own homes. We can hardly



be surprised that Vives was not sufficiently in advance of his time to anticipate all the dangers of "outdoor relief."

But such measures as these would involve a considerable expenditure. Vives met this objection by the assertion that in most towns the hospitals were so wealthy that their revenues would quite suffice for the purpose if wisely administered. The richer foundations must help those with scantier resources, and they must allow a part of their income to be spent on the deserving poor in their own homes. Vives even proposed that when the foundations in one town had a superfluity of revenue, it should be shared with other and less fortunate localities. If the endowments did not suffice, they might be supplemented by bequests, by collections in church, and by what the municipality could save in its expenditure on festivities.

So much, then, for the new discussion of the principles of poor relief. But it has already been noticed that many of the great cities of Europe were at the same moment, and quite independently, introducing practical reforms. With their rich foundations lavishly scattering alms, they attracted the destitute, both deserving and worthless, for many miles around. Moreover, there had grown up in the towns a sense of corporate life, which disposed them to assume this new duty of grappling with the evils of pauperism; and they had created an administrative and financial organization, which, though rude and imperfect, was yet superior to that of the greater states, and enabled them to set an example. Augsburg began in 1522 with prohibiting all street-begging, and appointing six guardians of the poor (*Armenpfleger*) to supervise the distribution of relief.<sup>124</sup> Nuremburg followed the example a few months later; Strasburg and Breslau in 1523; Ratisbon and Magdeburg in 1524.<sup>125</sup>

§ 60. But of all these civic reformations, the most interesting and important was that at Ypres in 1524 or 1525.<sup>126</sup> It followed very closely on the lines laid down by Vives; though whether it was suggested by him, or by the example of the German towns, or was altogether independent in its origin, it is impossible to say. Begging was absolutely forbidden; an effort was made to find work for all who were capable of it; the whole administration was centralized, and placed under four superintendents, assisted in each parish by four persons specially charged with the duty; a census of the destitute was taken in close conjunction with a reform of the hospitals; the requisite financial means were provided in the way Vives had suggested; and as it was necessary to rely to a large extent on the almsbox, the clergy were requested to exhort their flocks to liberal gifts.

The peculiar importance of the Ypres ordinance lies in the fact that it led to a discussion of principle by the very highest theological tribunal in the Roman obedience,—in which, it must be remembered, England still stood. That tribunal was, of course, the Sorbonne, the theological faculty of the University of Paris. The circumstances which led to this discussion are highly significant. The Ypres reform had apparently been introduced with the assent of the clergy of the city. But meanwhile grave ecclesiastical changes had been carried out in Germany, and the clergy of Ypres became suspicious of anything nearer home that seemed to point in the same direction. Accordingly, in 1530, the heads of the four mendicant orders in Ypres,—whose own practice seemed to be called in question by implication in the prohibition of mendicity,—together with certain other clergy, protested against the reforms on the ground that they savoured

of Lutheranism, and that they oppressed the deserving poor. The magistrates replied that the honest poor were now far better provided for than ever before, and that they abominated Luther's wicked measures against the friars. But still, as their policy was thus called in question, they determined to appeal to the Sorbonne, and sent a copy of their new rules to Paris. The answer of the Sorbonne, dated Jan. 16, 1531, cast the weight of its great authority on the side of reform. It judged "the method of provision for the poor introduced by the magistracy of Ypres to be a work which, though difficult, was nevertheless useful, pious, and salutary, and not repugnant to the gospel or to the example of apostles and fathers." But it went on to lay down several conditions. Begging should only be prohibited when the public resources were sufficient to provide for all in need, and there was no danger that any should be left to starve. Moreover, though it might be made penal to beg, it must not be made penal to give voluntary alms. The rich were not to think that, by contributing to the public fund, they freed themselves from the obligations of charity. And as to the reform of hospitals, etc., "the secular magistrates are to take care lest, under pretext of piety or of assisting the distressed, they should venture to encroach upon the revenues or goods of Churches or clergy. This would be the part, not of the Catholic faithful, but of impious heretics—Waldenses, Wiclifites, Lutherans." The doctors of the Sorbonne went on to make the further proviso, in which we can more readily agree with them, that the town should not selfishly exclude from its charity the inhabitants of the surrounding districts when they could not provide for themselves, seeing that town and country were mutually dependent.

It would have been wiser had the Sorbonne not en-

couraged by its express commendation the continuance of private almsgiving, and if it had not given some apparent support to those who resisted the reform of old foundations. But still the decision went as far as could fairly be expected, and a good deal further than many Catholic theologians were inclined to follow.

Applications began to pour in upon the Ypres authorities for copies of their regulations. The emperor, Charles V., himself wrote for a copy in September, 1531, in order that he might introduce similar rules in other towns if they seemed beneficial.<sup>127</sup> The very next month he issued a poor law for the whole empire, contained in the ordinance known as the "Pragmatic." This decree could be no more than a suggestion or stimulus to the local authorities, for Charles had certainly not the power to see that it was carried out. It contained one dangerous departure from the Ypres model in that it permitted the local authorities to give to a selected number of the impotent poor a badge authorizing them to beg. The desirability in the last resort of having recourse to compulsory taxation in order to provide for the impotent poor, rather than permitting them to beg in the streets, was not for a long time clearly recognized; and this clause was probably thought necessary to meet the case of districts where the charitable foundations were inadequate.

So many requests for information did the Ypres magistrates receive, that they thought it well to commission the Provost of St. Martin, the cathedral church of the diocese, to draw up an account of the reform and of the Paris decision. This was published towards the end of 1531, at Ypres, under the title, "A Method of Poor Relief practised at Ypres, and most profitable to the whole Christian World."<sup>128</sup>

It would be going too far from our more immediate subject

to trace the further course of continental legislation. That of France, which is exactly parallel in time with that of England, and resembles it in all important points, though its results were widely different, we shall notice later. Nor need we enter into the history of the heated controversy which was kept up for several years among Catholic theologians as to the prohibition of mendicity.<sup>129</sup> Such detail of discussion and action outside England as has already been given has been for the purpose of bringing out the fact that the English legislation, beginning in 1536 and leading up to "the poor law of Elizabeth," was but the English phase of a general European movement of reform. It was not called for by anything peculiar to England either in its economic development up to the middle of the sixteenth century, or in its ecclesiastical history. We need not suppose that the English legislation was a mere imitation of what was being done elsewhere; the same causes were everywhere at work, leading to the same general results. But it is clear that England, instead of preceding other nations, rather lagged behind, and that its action was probably stimulated by continental examples. English statesmen, at every step of their action in this matter, moved in an atmosphere of European discussion, of which they must have been aware. The period when the history of the English poor law began to diverge from that of the rest of Europe, was rather the seventeenth than the sixteenth century. In Germany the breakdown of the new organization was probably due to the Thirty Years' War;<sup>130</sup> in France, to the number and wealth of the charitable institutions, which either survived from the previous century or were founded in the seventeenth.<sup>131</sup> But neither in its origin nor in its early stages was the poor law of England in any way peculiar to that country.

§ 61. Yet it was not merely the movement of thought abroad which led to a reform in the methods of poor relief in England; a vigorous attempt to deal with the situation was urgently called for by the conditions at home. For there was a marked increase during the first half of the sixteenth century in the amount of distress of every kind, as well as of what always results from and accompanies it in a country without a systematic system of aid, viz. vagrancy and theft. There had been professional beggars and thievish vagrants for centuries; and their numbers had grown with the growth of thoughtless charity. They had probably received large reinforcements in the course of the social struggles of the fourteenth century. The "want of governance" and the private wars of the following century must have added to the evil; when "whole counties were infested by bandits,"<sup>132</sup> there was little encouragement to honest industry. But in the sixteenth century the "beggars" became a positive terror to quiet folk. The people of Southampton hit upon the device of employing the barbers to frighten the invaders; and in 1527 paid four pence to four barbers "for cuttyng of vacabundes here short."<sup>133</sup> In a little town like Nottingham we find the jury at the sessions, year after year, presenting every civic officer, from the constables up to the justices, "for suffering valiant beggars."<sup>134</sup> In 1543 they say, "We present you, Justices, because you do not every one of you look upon your wards for these valiant beggars that have newly and lately come into the town."<sup>135</sup> In 1556 it is the incursion not merely of "vacabundes," but of destitute persons: "We desire you, Master Mayor, and your Brethren, to see a redress for the poor people that daily come into the town, and there do inhabit and tarry to the great annoyance of the town; for the town is not able to relieve them."<sup>136</sup> In the rural districts the inroads of beggars resembled those of tramps in parts of

America to-day. "If they ask," says a contemporary, "at a stout yeoman's or farmer's house his charity, they will go strong as three or four in a company, where for fear more than good will they often have relief."<sup>137</sup> The state of feeling which their advent usually produced is preserved to us in the old nursery rhyme—

"Hark! hark! the dogs do bark; the beggars are coming to town."

With the result—

"Some gave them white bread, some gave them brown,

And some gave them a good horse-whip, and sent them out of the town."

We can readily point to some of the causes of this increase of vagabondage and destitution. Chief among them were the agrarian changes. Whatever uncertainty there may be as to their exact nature, there can be none as to their more immediate results: they deprived great numbers of the agricultural labouring class,—small customary tenants and cottagers,<sup>138</sup>—of the means of support in their old places of abode, and sent them wandering over the country. The inevitable consequences are only too clearly pictured to us by competent contemporary observers. More, writing in 1516, thus describes the results of the evictions then taking place: "By one means or other, either by hook or crook, they must needs depart away, poor wretched souls—men, women, husbands, wives, fatherless children, widows, woful mothers with their young babes, and their whole household, small in substance and much in number, as husbandry requireth many hands. Away they trudge, I say, out of their known and accustomed houses, finding no place to rest in. All their household stuff, which is very little worth, though it might well abide the sale, yet, being suddenly thrust out, they be constrained to sell it for a thing of nought. And when they have wandered abroad till that



be spent, what can they then else do but steal, and then justly, pardy, be hanged, or else go about a-begging? And yet then also they be cast in prison as vagabonds, because they go about and work not; whom no man will set to work, though they never so willingly proffer themselves thereto. For one shepherd or herdman is enough to eat up that ground with cattle, to the occupying whereof about husbandry many hands were requisite."<sup>139</sup> The act of 1533-34, limiting the number of sheep any one man might keep, gives a similar account. Owing, it declares, to the union of farms and the change from arable to pasture, "a marvellous number of the people of this realm . . . be so discouraged with misery and poverty that they fall daily to theft, robbery, and other inconvenience, or pitifully die from hunger and cold."<sup>140</sup> Harrison, forty years later, repeats the same lament, though it would seem to be rather a repetition of some earlier comment by another writer than directly suggested to Harrison himself by the circumstances of his own time, since he prefaces it with, "I found not long since a note . . . the effect whereof ensueth." "Idle beggars are such either through other men's occasion, or through their own default. By other men's occasion (as one way, for example), when some covetous man (such, I mean, as have the cast or right vein daily to make beggars enough whereby to pester the land, espying a further commodity in their commons, holds, and tenures) doth find such means as thereby to wipe many out of their occupyings, and turn the same into their private gains. Hereupon it followeth that although the wise and better-minded do so behave themselves that they are worthily to be counted among the second sort [the poor by casualty], yet the greater part, commonly having nothing to stay upon, are wilful, and thereupon do either prove idle beggars, or else continue stark thieves till the gallows do eat

them up:" and the old parson adds the query, "At whose hands shall the blood of these men be required?"<sup>141</sup>

By the side of this agrarian revolution, the other causes of destitution are hardly worth considering. But it may be noticed that the difficulties of the time were increased by the expansion of trade in the staple manufacture of England, viz. the cloth industry, and the consequent change then proceeding in industrial organization. It has been shown that "the gild-system," manufacturing for a limited and local market, had in the cloth industry given place to "the domestic system," manufacturing for the whole of Western Europe. Instead of independent master craftsmen, who buy their own materials and work them up to meet the comparatively stable demand of the neighbourhood, we find "clothiers," *i.e.* traders with a certain command of capital, who give employment to the master craftsmen and their dependants, and send their goods by the Merchant Adventurers to be sold in the Netherlands and elsewhere. But with each extension of the market comes additional danger of glut and cessation of employment, owing to the greater fluctuations of demand, —whether these latter are due to economic or to political causes. This was exemplified in 1528. Wolsey, to gain a political end, prohibited trade with the Netherlands. There immediately arose an outcry from the merchants that they could find no "vent" for their wares. At the same time the clothiers were no longer able to employ the craftsmen, and great numbers of men were thrown out of work. Wolsey yielded to the outcries of the people and the fear of rebellion and removed the prohibition, but not before much suffering had been caused. The temporary absence of work was, indeed, much less injurious than it would be in our own time; for many of the craftsmen had small holdings of land, and were not without other resources;<sup>142</sup> but, nevertheless.

the new evils attending the new organization of industry must not be left altogether out of account.

Among other causes of distress must be reckoned a series of bad harvests with consequent dearth during the years 1527-36. During the previous century the usual price of wheat per quarter had been about 4*s.* or 5*s.* In but few years had it risen above 8*s.* (1409, 1428, 1437, 1438, 1482), and only in two years above 10*s.* (1438, 1482).<sup>143</sup> After the famine of 1348,<sup>144</sup> there had followed more than fifty years of good harvests and cheap food. The harvests of the next half-century had been of more varying quality, prices rising above 8*s.* in 1501, 1502, 1512; but most of them had been abundant. But in 1527 the price of wheat, as well as that of rye,—which was probably the common food of the people over a large part of England,<sup>145</sup>—suddenly more than doubled. Wheat rose from 6*s.* 2*d.* to 12*s.* 11*d.*, and rye also from about 6*s.* to about 12*s.* For the next five years the price of wheat remained at 8*s.* or above; it fell somewhat in 1533 and 1534, but in 1535 and 1536 it was again above 10*s.* In two of the years in which wheat was a little cheaper, rye was extraordinarily dear, reaching a point as high as 16*s.* the quarter. It must be observed that the early years of this period of dearth were precisely those in which Wolsey's policy deprived the weavers of employment; and also that it was impossible to alleviate distress by importation, since the bad harvests were general all over Europe.<sup>146</sup>

One other feature must be added to the picture. Contemporary writers are unanimous in telling us that the ranks of the vagrant and criminal classes were recruited from the great trains of "idle and loitering serving-men," whom wealthy gentlemen "carried about with them at their tails." "They never," says More, "learned any craft whereby to get their livings. These men, as soon as their master is

dead, or be sick themselves, be incontinent thrust out of doors. . . . Many times the dead man's heir is not able to maintain so great a house, and keep so many serving-men as his father did. Then in the mean season they that be thus destitute of service either starve for hunger, or manfully play the thieves."<sup>147</sup> The vigorous action of Henry VII. and the Star Chamber, in enforcing the laws against "livery," must have thrown many men of this sort out of service to prey upon the public.<sup>148</sup>

When we have given due weight to each of these considerations, we may have some inkling of the condition of affairs when the new poor law began to take shape. It was a time when to the old evils of mendicancy and vagrancy, as the Middle Ages had produced them, were being added all over the country much distress and misery among the honest labouring population. It was this union of desert and undesert that perplexed the men of the time. Starkey, in his *Dialogue*, written probably in 1536, makes his characters discuss for the hour whether or no there was more distress, and if so, why. One maintains that the number of beggars was due entirely to idleness, the other that it was due to poverty. At last they seem to agree that poverty must have something to do with it, for they could hardly think that all were dissemblers who appeared to be in distress: there really seemed to be more poverty than in times past.<sup>149</sup> The eloquent and tender-hearted Lever, preaching before the King in 1547, strikes the right note: "O Merciful Lord, what a number of poor, feeble, halt, blind, lame, sickly, *yea with idle vagabonds and dissembling caitiffs mixt among them, lie and creep begging in the miry streets!*"<sup>150</sup>

§ 62. The act of 1536<sup>151</sup> begins with stating the obstacles which had prevented the enforcement of earlier statutes. These statutes had again and again laid down that able-

bodied beggars should be compelled to work; but yet there was no provision "for the setting and keeping in work and labour the said valiant beggars." The act of 1530, again, had authorized the justices to grant begging licenses to persons incapable of labour; but the sustenance they were thus able to secure was often a scanty one; and experience was beginning to show the inexpediency of every kind of open mendicancy. Echoes of the controversy on this subject among Continental publicists and theologians must, of course, have reached England. The new act attempts to meet each of these difficulties exactly in the same way as Continental legislation. Its object, as expressed again and again, was that none should "go openly in begging." To this end the local authorities are charitably to receive and then to "succour, find, and keep" all the *impotent* poor belonging to their district. The necessary means are to be provided by the collection of alms in church on every Sunday, holiday, or festival, in "common boxes" provided for the purpose,<sup>152</sup> and the clergy are bidden "as well in their sermons, collations, biddings of the beads, as in time of confessions, and at the making of the wills or testaments of any persons," to exhort their flocks to show charity. But begging could not be put an end to if the lavish and thoughtless distribution of alms were allowed to continue at the doors of great houses or of charitable foundations, or by executors in accordance with testamentary dispositions. Accordingly the act altogether prohibited "common and open doles," on the two grounds that the gathering together of the recipients led to the spread of infectious diseases, and "that most commonly unto such doles many persons do resort who have no need of the same." "No person shall make any common dole, or shall give any ready money in alms otherwise than to the common boxes and common gatherings." Where any persons, bodies

corporate or others, are legally bound to make periodical distributions, they are to make the payment to the common boxes; and it is implied that under this clause the parish funds will receive contributions from the monasteries. A book is to be kept in every parish with a record of the money collected, and of the persons to whom it is allotted. The surplus in wealthy parishes is to be distributed among the poorer parishes in the same city, town, or hundred. If the revenue suffices for its purpose, and yet the impotent poor are not adequately provided for, the parish will be fined 20s. a month.

In dealing with the other class, the valiant beggars, the act was less complete. Previous statutes had ordered that if they were found begging they should be whipped, and ordered off to their own parishes. They were now helped on their way by the provision that, on producing a testimonial of having been thus whipped and passed on to their county, they should be given food and lodging every ten miles.<sup>153</sup> If they loitered on the way, and again "played the vagabond," the upper part of the gristle of the right ear was to be cut off; and on again offending they were to suffer death as felons. But if they did get home, there was no very definite provision for them. There was nothing but the vague direction that the alms of the parish collected in the common box were also to be used "for setting and keeping to work the able poor." The possibility of creating "relief works" for the unemployed had indeed been under discussion. The government had laid before the Commons the draft of a bill providing that "sturdy beggars . . . should be set to work at the king's charge, some at Dover and some at places where the water hath broken over the lands." But, for some reason unknown to us, no statute was passed.<sup>154</sup>

On reviewing the act of 1536, we cannot fail to notice

that it proceeds from principles hitherto unrepresented in legislation. Previous statutes had merely attempted to confine begging to those who really could not labour; this act, on the contrary, lays down the general principle that none shall beg.<sup>155</sup> The impotent ought in future to be adequately provided for otherwise. The obligation to support the destitute was now distinctly laid upon the parishes; and when this was once understood, it was a natural corollary to introduce a compulsory assessment if voluntary contributions did not suffice. There was, moreover, a dim perception of the fact that it was not always possible for the able-bodied to find work; and upon the parish authorities, again, the duty was cast of furnishing employment. These are the principles which governed the subsequent development of the English Poor Law; so that it is this act, rather than the legislation of Elizabeth, which must be regarded as the foundation of the later system.

The course of subsequent legislation may be more briefly stated; and in doing so it will be found convenient to deal separately with the provision for the impotent and for the able-bodied. In 1547 it was enacted that the local authorities should provide "tenantries, cottages, and other convenient houses" for the lodging of the impotent.<sup>156</sup> But there was much difficulty in obtaining adequate resources for the purpose; and it was felt to be necessary, in 1555, to enact "that if any person, being able to further this charitable work, do obstinately and frowardly refuse to give towards the help of the poor, the parson, vicar, or curate and churchwardens of the parish shall gently exhort him; and if he will not be so persuaded . . . the bishop shall send for him to induce and persuade him by charitable ways and means; . . . and so according to his discretion take order for the reformation thereof."<sup>157</sup> In 1563 it was added that if



the bishop failed, the "obstinate person" should be bound to appear before the justices of the peace in rural districts and in towns before the mayors, who should have authority "to sesse taxe and lymit upon every such obstinate person . . . according to their good discretions, what sum (he) shall pay weekly towards the relief of the poor within the parish where he shall inhabit."<sup>158</sup> Finally, in 1572, the justices were empowered to make a direct assessment, and to appoint overseers of the poor to take charge of the whole business, so that it might no longer fall on the parson and churchwardens and collectors appointed by them.<sup>159</sup>

The delay and hesitation in resorting to compulsory taxation are very noticeable: it was long before the conception of alms given by one individual to another gave place to the conception of a contribution from every citizen towards the fulfilment of a common obligation. It is very significant, in view of the exaggerated notions generally current of the exceptional character of the English legislation, that the system of compulsory assessment for the relief of the poor had been introduced in Paris some eight and twenty years before, and over the whole of France four years before.<sup>160</sup> The compulsory rate probably excited much the same indignation as the School Board rate to-day. We find, for instance, one of the substantial burgesses of Ipswich complaining that the "seot and lot (for the poor) voted on him was done against reason, *consent*, charity, and honesty."<sup>161</sup> But it must not be thought that assessment at once became the general practice. Where, and so long as, voluntary collections sufficed, the old plan was allowed to continue. Thus, at Southampton, voluntary contributions were enough for the purpose as late as the middle of the next century, if not later; the churchwardens of each parish accounted to the mayor, and paid over to him the sums collected. They were

then placed in the Audit House in the chests of the various parishes; and the collections of each parish were employed, in the first instance, for the poor of that parish. In 1648 the mayor was dissatisfied with the amount collected in a wealthy parish, and directed the collectors to stand at the church door "as well on Thursdays and at other church solemnities, as on the Sabbaths, to collect the alms of the congregation."<sup>162</sup>

The transition from mediæval conditions took place with even slower steps than would be suggested by the recital of the main provisions of the various statutes. For, in the first place, the act of 1555 reverted to the earlier plan of licensing deserving beggars, and empowered the justices, on the certificate of the local authorities that any particular parish "had in it more poor and impotent folks not able to labour than the said parish was able to relieve," to grant licenses, to as many as they should think proper, to beg within certain limits.<sup>163</sup> Many towns sought to make these licensed beggars useful by setting them to keep watch against unauthorized vagrants. Oxford had its four "Trinity men" "appointed bedells of the beggars," who "took a ward every Friday to gather the devotion of the houses," and on the other days "daily the streets to walk, to look what other beggars or vagabonds do come into the city, and then to give knowledge to the constables."<sup>164</sup> A few years before the more rigid principles of 1536 were laid down, Southampton had provided, in 1529, as many as sixty-four liveries for its beggars; about 1540 a "controller" or "master of beggars" is mentioned, with a silver-gilt badge instead of a tin one, and a small annual fee.<sup>165</sup> But this policy was probably given up in the larger towns before the reign of Elizabeth came to an end. Thus, in 1583, we come across a municipal ordinance at York that "from henceforth no Head-beggars shall be chosen,"

and that from Christmas the four present Head-beggars "shall not have any wages of clothing of the Common Chamber, but only their weekly stipends gathered of the money assessed for the relief of the poor." <sup>166</sup>

And, in the second place, it must not be forgotten that many of the hospitals and almshouses still survived to perform their old functions, although they no longer distributed doles to outsiders. In London, for instance, the great hospitals were all utilized. Early in 1547 Henry VIII. granted to the mayor and citizens of London the Hospitals of S. Bartholomew and of Bethlehem, together with a portion of their endowments, largely, as it would appear, at the prompting of Ridley. Ridley, who was the moving spirit in the reform of the London poor relief, continued to insist upon the need of further provision for the destitute. According to Holinshed, he completely won the sympathies of the young king Edward, who laid the matter before the Lord Mayor, Sir Richard Dobbs. Thereupon Dobbs and Ridley brought together a committee of twenty-four leading citizens, who discussed the whole subject, and agreed upon what would now be called a Report on the general subject of pauperism, describing the various classes that needed attention, and recommending appropriate measures in each case. The king, on his side, was not slow to act. In 1551 he bestowed upon the city the Hospital of S. Thomas with a portion of its endowments; to which he added, in 1553, the royal mansion house of Bridewell. Already, apparently in 1552, "the inhabitants" had all been "called to their parish churches, where by Sir Richard Dobbs, then mayor, their several aldermen or other grave citizens, they were, by eloquent orations, persuaded how great and how many commodities would ensue unto them and their city if the poor of divers sorts (which they named) were taken from out their streets,

lanes, and alleys, and were bestowed and provided for in hospitals. . . . Therefore was every man moved liberally to grant what they would impart towards the preparing and furnishing of such hospitals, and also what they would contribute weekly towards their maintenance for a time, which they said should not be past one year or twain, until they were better furnished of endowment. To make short, every man granted liberally according to his ability; books were drawn of the relief in every ward of the city towards the new hospitals, and were delivered by the mayor to the king's commissioners."<sup>167</sup> Public-spirited efforts of this kind must be remembered when attention is called to the harshness of the measures against incorrigible vagrants. Holinshed thus describes the apportionment of work to the various institutions: "For the innocent and fatherless . . . they provided the house which was late Gray Friars in London, and now is called Christ's Hospital, where the poor children are trained in the knowledge of God, and some virtuous exercise to the overthrow of beggary. For the second degree (the poor by impotency) is provided the Hospital of S. Thomas in Southwark, and S. Bartholomew in West Smithfield, whereat continually at least two hundred diseased persons, which are not only there lodged and cured, but also fed and nourished. For the third degree (the thriftless poor) they provided Bridewell, where the vagabond and idle strumpet are chastised, and compelled to labour. . . . They provided also for the honest, decayed householder, that he should be relieved at home at his house, and in the parish where he dwelt, by a weekly relief and pension."<sup>168</sup> The manner in which this policy was carried out may be further illustrated from the civic ordinances. Thus, in 1569, we find the following entry: "For the preventing of all idle persons and begging people, whether men, women, or children, or other

masterless vagrants, an effectual order was made . . . . to take them all up, and to dispose of them in some of the four hospitals of London, by the sixteen beadles belonging to the same. . . .! This order was made at a meeting of the governors of all the hospitals.”<sup>169</sup>

Similar attempts were made in some other towns to utilize, if not old endowments, yet the buildings of old charitable institutions. Thus the corporation of Ipswich purchased from the private individual to whom it had passed the old buildings of the Black Friars, and made it the home of its charitable work, under the name of Christ's Hospital. There “the poor (children?) and orphans were to be taught, such as were sick to be preserved alive for honest uses, and the slothful vagabonds and sturdy beggars made to labour for their reformation.”<sup>170</sup> To what extent the hospitals and almshouses outside London contributed to the relief of destitution it is impossible to say until their history has been more carefully examined. We know, however, that many survived;<sup>171</sup> and for a long time they were regarded as an integral part of the system. In 1593 there seems to have been an inquisition by sworn juries in every hundred into the condition of the “hospitals, almshouses, and other places ordained for the relief of the poor.”<sup>172</sup> In 1601 the justices were even directed to levy a rate upon every parish for the purpose, among other objects, of assisting “such hospitals and almshouses as shall be in the said county.”<sup>173</sup> As every one knows who has explored the out-of-the-way corners of the older English towns, the foundation of almshouses was a favourite form of charity in the Elizabethan age, from the couple of little houses built by a wealthy citizen, up to the “Hospital or Measondieu” established by a great nobleman like the Earl of Leicester.<sup>174</sup>

So much, then, as to provision for the impotent. The

other public duty, the employment and, if possible, the reform of the unemployed, was less satisfactorily performed.<sup>174a</sup> It is true that the act of 1547,—the offspring of terror,—which ordained that every man or woman able to work, and refusing to labour, should be branded, and adjudged the slave of the informant, and put to death if he ran away twice,<sup>175</sup> was repealed in the following year.<sup>176</sup> But there was but little effort to provide work for the able-bodied, even if they would take it. The great act of 1572 did but order that any surplus from the poor-rates over what was required for the maintenance of the impotent poor should be applied “to setting rogues and vagabonds to work.”<sup>177</sup> A great step forward was, however, at last taken in 1576, when the justices in every county were “empowered to purchase or hire buildings, to be converted into Houses of Correction, and to provide a competent stock of wool, hemp, flax, iron, or other stuff, ‘to the intent,’ the act says, ‘that youth might be accustomed and brought up in labour, and then not like to grow to be idle rogues; and that such as be already grown up in idleness, and so rogues at this present, may not have any just excuse in saying that they cannot get any service or work.’”<sup>178</sup> It is very probable that the local authorities had always drawn a distinction between the well-known vagrant and the poor householder whom misfortune had brought to poverty, and who would seem as a rule to have been relieved in his own home. In this act special provision is made for the former class: “That other poor and needy persons, being willing to labour, may be set on work, the keepers of the stock are authorized to supply poor persons with materials for work, and to pay them for the work they should perform.” This clause was repeated in the consolidating acts of 1597 and 1601.<sup>179</sup> But in many parishes, especially in the Midlands, the plan was adopted,—and

retained up to the end of last century,—which had been directed in the act of 1547: the unemployed poor, known as *roundsmen*, went from house to house, and every householder of a certain rental was bound to employ them for at least one day at a certain wage.<sup>180</sup>

This, or some other equally unsatisfactory plan of finding work for the honest poor, was resorted to in many parishes during the next two centuries. But it may with some probability be conjectured that the comparatively slight attention paid to the wants of persons in this condition is to be explained by their insignificant numbers. With the enormous development of the domestic industries in the rural districts, employment could hardly have been difficult to find, after a time, for most of those who were ready to take it. The chief duty of the magistrates in the seventeenth century was to deal with incorrigible vagabonds, and with them the severity of the penal law could alone be of use. Even now, when that class has certainly very greatly diminished, proportionally and even positively, the only method of dealing with them that the best-informed of modern observers can suggest is that they should be “harried out of existence,”—not indeed by branding and the gallows, but by police supervision and sanitary reform.<sup>181</sup> The Houses of Correction which were established in several counties in conformity with the Act of 1576 were of considerable efficacy.<sup>182</sup> They were indeed “put down in most parts of England” before 1596; “the more pity,” says our informant, a Somersetshire justice.<sup>183</sup> But possibly their work was by that time to some extent accomplished, for, in spite of the complaints of the number of vagrants at the end of the sixteenth century, there is much to lead us to the conclusion that the swarms of beggars which fifty years before had crowded the streets and menaced personal safety, had almost disappeared.



## NOTES.

1. "Here we have the great, the prominent, the staring, the horrible and ever-durable consequence of the 'Reformation;' that is to say, pauperism established by law."—Cobbett, *Prot. Reform.*, i. § 322. Cobbett has been followed by Ratzinger and Döllinger.

2. See Hyndman, *Hist. Basis of Socialism*, ch. ii.

3. On this subject generally, see Uhlhorn, *Christian Charity in the Early Church*.

4. *Ib.*, 266; cf. Bingham, *Antiquities of the Christian Church*, bk. v ch. vi. § 3.

5. On tithe, see Hatch, *Growth of Church Institutions*, 102, seq.

6. Kemble, *Saxons in England*, ii. 479 n.

7. *Ib.*, 504, 505.

8. *Ib.*, 503.

9. Bingham, bk. ix. 8, § 6; Hatch, *u.s.*, 51, seq.

10. Hatch, 54–56.

11. Ratzinger, 201.

12. Kemble, ii. 504.

13. Ratzinger, 266.

14. Kemble, ii. 479 n.

15. There can hardly be any doubt of this, in spite of the unsupported assertions of Ratzinger (422) to the contrary.

16. "In every license from henceforth to be made in the Chancery of the appropriation of any parish church, it shall be expressly contained . . . that the Diocesan . . . shall ordain . . . a convenient sum of money to be paid and distributed yearly of the fruits and profits of the same churches . . . to the poor parishioners of the said churches, in aid of their living and sustenance for ever:" 15 Rich. II., c. 6; *St.*, ii. 80. This was confirmed by 4 Hen. IV., c. 12 (*St.*, ii. 137), with the addition that a secular priest should be instituted vicar perpetual in all such appropriated churches "to do divine service, and to inform the people, and to keep hospitality there." An order to the same effect as the statute of Rich. II. had been issued by Archbishop Stratford in 1342; Stubbs, *Const. Hist.*, ii. 647.

17. *Canterbury Tales*, Prologue, ll. 488–492. Cf. the attack on the parish priests in the Wyclifite tract, *The Office of Curates*, in *English Works of Wyclif* (E.E.T.S.).

18. Passus i. 80–83.

19. See the *Inventory of Church Goods*, S. Benedict's, Norwich, 6 Edw. VI., published by the Rev. J. Dombrain in the *East Anglian*, iv. (1871) 37.

20. Lever's *Sermon before the King*, 1550, in Arber's Reprint, 82.

21. Brand, *Popular Antiquities*, i. 231, quotes from Aubrey's *Miscellanies* for Wiltshire (1714): "There were no rates for the poor in my grandfather's days: but for Kingston S. Michael (no small parish) the church-ales of Whitsuntide did the business. In every parish there is (or was) a church house, to which belonged spits, crocks, etc., and utensils for dressing provision." For church-ales, see Peacock in *Archæol. Journal*, xl.; Weaver's *Wells Wills*, 203; and *Bodleian MSS.*, Wood, 4<sup>o</sup>, D. 3.

22. At Northleach, in Gloucestershire, the "Churche Taverne" was let on the condition that "the same Rome or Taverne w<sup>th</sup> the Laufte be kept in good and lawful reparacion, and to permit the toune to have the use of the same one month at Whitsontide."—Royce, *The Northleach Court Book*, in *Trans. Glou. and Bristol Archæol. Soc.*, vii. (1882-3). Mr. Royce adds (110) that "a stock from the rent was in 1603 lent to old and young tradesmen." The interest, in 1608, was devoted to the provision of bread for four poor aged impotent almsfolk, being in church "in prayer time every Sabbath," and there is evidence (undated) of "Goody Smarte's pawne" of two pieces of cloth for the loan of £1 10s. For other references to church houses, see Cullom's *Hawstead* (1784), 73; Fox, *Gilds of Sodbury*, in *Trans. Glou. Arch. Soc.*, xiii. (1888-9), pt. 1; the same vol. of *Trans.*, xiii. pt. 2, 364; the *Ludlow Churchwardens' Accounts* (Camden Soc.), 29; and Weaver's *Wells Wills*, 52. Town-taverns may still be found in Germany, as at Kleinschmalkalden in Thuringia.

23. Philip Stubbs, in *Anatomy of Abuses*.

24. W. H. Stevenson, in his article on *Churchwardens' Accounts of Holme Pierrepont* (in *Old Nottinghamshire*, ed. J. P. Briscoe, 2nd ser., 1884), quotes, "An assesement that the parisheners were content to pay yerelyc towards mayntenance of the Church Stock, 1552, because othere gatheringes with hobbyhorse and lightes were layed down." The "lights" refer, no doubt, to the separate "devotions" or fraternities within parish churches. Plot, in the *Hist. of Staffordshire*, tells us that at Abbot's or Paget's Bromley there was a "hobby-horse dance," to which "belonged a pot, which was kept in turn by the reeves of the town, who provided cakes and ale to put into this pot: all people who had any kindness for the good intent of the institution of the sport giving pence apiece for themselves and families. . . . The money after defraying the expenses of the cakes and ale went to repair the church and support the poor."

25. Mrs. Oliphant, *S. Francis*, 140-143.

26. Ratzinger, 308.

27. *Ibid.*

28. *Ib.*, 428. See *Hist. MSS. Com.*, i. 88a, for lands attached to the office of almoner.

29. *Ib.*, 309. Thus Lanfranc laid down in his Ordinances, quoted by Ducange (*s.v. Eleemosynarius*), "Eleemosynarius aut per se perquirat aut per veraces et fideles homines cum multa sollicitudine perquiri faciat ubi ægri et debiles jaceant, qui non habeant unde se sustinere valeant, et ingressus domum blande consoletur ægrum, et offerat ei quod melius habet, et sibi intelliget esse necessarium."

30. Cobbett, *Hist. Reform.*, i. § 120, and frequently.

31. Hallam remarks that "it is a strange error to conceive that the English monasteries before the dissolution fed the indigent part of the nation and gave that general relief which the poor laws are intended to afford," and notices that, for instance, the account of expense at Bolton Abbey "makes a very scanty show of almsgiving in this opulent monastery."—*Middle Ages* (ed. 1878), iii. 302 n.

32. Fuller, quoted by Ribton-Turner, *Vagabonds*, 85. This opinion is confirmed by the judgment of Eden, *State of the Poor*, i. 94.

33. *Armenpflege*, 311.

34. *Ib.*, 397.

35. Nitti, in *Economic Review*, ii. (1892), 6.

36. Quoted in Froude, ii. 434.

37. Gasquet, *Dissolution of the Monasteries*, ii. 500.

38. Ehrle, *Beiträge zur Geschichte*, etc., *der Armenpflege*, is able to make in this way a very effective reply to the exaggerations of Emminghaus.

39. Ehrle, 19, 22 n.

40. *Ib.*, 35.

41. Cf. Uhlhorn: "Zwar hat auch die mittelalterliche Kirche gelehrt, dass ohne Not aus Arbeitscheu betteln Sünde sei, aber sie hat doch daneben den Bettel mit einem Heiligenschein umgeben; sie hat zwar einerseits dadurch, dass sie das Almosengeben als ein verdienstliches Werk empfahl, eine reiche Mildthätigkeit hervorgerufen, aber sie hat im Zusammenhang damit die richtige Vertheilung der Almosen ausser Acht verlassen. Der Hauptzweck blieb doch sich die Gnade Gottes zu erwerben, nicht die Armut zu bekämpfen und zu lindern. Von diesen sittlichen Anschauungen aus konnte es nur zu einem zufälligen Wohlthun, nicht zu einen geregelten Armenpflege kommen," in the *Handwörterbuch der Staatswissenschaften*, i. 828.

42. Cf. Gasquet, i. 30, 31.

43. See, *e.g.*, the account of S. Leonards at York in Drake's *York*

(8vo ed.), ii. 365; and Stow's account of S. Bartholomew, *Survey* (ed. Morley), 346.

43a. Like the Poor Brothers of the Charterhouse on the later foundation of Thomas Sutton (1611), with whose modern position the touching account in Thackeray's *Newcomes* has made the world familiar.

43b. Tanner's *Notitia Monastica* furnishes a list of 509; while the *Monasticon* (ed. 1830) gives 464. Both are referred to by Creighton, *Hist. of Epidemics*, 86.

44. Drake, *u.s.*, ii. 163. There were at least seven in London as early as 1371, in addition to several "lazar-houses" or "lokes."—Sharpe, *Wills*, 139. An incomplete list of twenty-eight Scotch hospitals will be found in Keith's *Scottish Bishops*, ed. Russell (1824).

44a. This "Stiftungswesen" is noticed by Ratzinger, 366.

45. Ratzinger, 319.

46. *Ib.* and 360.

47. *Ib.* 323.

48. *Ib.* 360.

49. *Ib.* 362. Ratzinger is of opinion (429) that things were different in England, but this is very improbable.

50. Sharpe, *Calendar of Wills*, pt. 2, 245. Of bequests to hospitals there are abundant examples in the same calendar, among the most interesting being those on pp. 139, 219, 235, 361. Outside London, see, *e.g.*, the instance of 1406 in Furnivall, *Fifty English Wills*, 12.

51. 2 Hen. V., st. i. c. 1; *St.*, ii. 175. Cf. the Scotch Acts referred to in John Mackintosh, *Hist. of Civilization in Scotland*, i. 491.

51a. Thus the Wardenship of God's House at Southampton (founded temp. Rich. I.) had become a valuable sinecure as early as the reign of Edward III.—*Hist. MSS. Com.*, vi. 552.

52. *Four Supplications* (E.E.T.S., 1871), 13.

53. In his reply to the *Cavils* to almshouses, *Worthies*, i. 47.

53a. *A Supplication of the Poor Commons* (1546) in *Four Supplications*, 78.

54. *The Select Works of Robert Crowley* (E.E.T.S., 1872), 11, 12. The *Epigrams* were written in 1550.

55. Cf. the case of the hospital in Greatham, co. Durham, in Surtees, *Hist. of Durham*, iii. 134. For hospitals suppressed and hospitals that survived in Exeter, see Freeman, *Exeter*, 173-177.

56. Harman, in *Rogues and Vagabonds*, 4.

57. For an instance as early as 1412, see Riley, *Memorials*, i. 586.

58. Ribton-Turner, 81.

59. Cf. Ratzinger (357) on modern fraternities in Catholic countries.

60. E.g. *English Gilds*, 160.

61. *English Gilds*, Nos. 14, 21, 22, 24, 25, 27, 29.

62. E.g. *ib.*, Nos. 16, 17, 18, 19, 26, 29.

63. *Ib.*, Nos. 5, 7, 13, 16.

64. "*Almesse*," *ib.*, Nos. 9, 11. Cf. "alms to the poor for the soul's sake of the dead," *ib.*, xxix.

65. E.g. Sharpe, *Wills*, pt. 2, 432, 476; Clode, *Early Hist. of Merchant Taylors*, 120, 121.

66. *Ib.*, 478.

67. *Ib.*, 398: "for assisting poor honest men of the craft, more especially those of the clothing of the said commonalty"—in a bequest of 1493 to the "Art" of Goldsmiths of London, *ib.*, 617.

68. Drake, *York*, ii. 181.

69. *Ib.*, 314.

70. See, e.g., *English Gilds*, 249; and Stow's account in his *Survey* (ed. Strype, bk. ii. 7) of the Gild of S. Barbara in S. Catherine's Church, near the Tower. Mr. Thomas North, in his *Chronicle of the Church of S. Martin in Leicester* (1866)—from whom the last reference is derived—also gives some of the annual account-rolls of the Corpus Christi Gild, from which it would appear in some years nothing was given in alms, e.g. 1525-6 (215), probably because the members were so prosperous that none of them needed assistance.

71. See the bequests for the purpose in Sharpe, *Wills*, pt. 2, 479 (1434, to the Gild of Corpus Christi within the craft of skinners), 481 (1432, to the tailors), 499 (1442, to the grocers), 534 (1457, to the salters), 654 (1553, to the coopers), 663 (1557, to the ironmongers); and see also Stow, (ed. Morley), 259, 289, 291 (for the grocers).

72. Besides the cases of Lynn and Coventry, referred to in ch. iii., *supra*, notice that at Ludlow in Walford, *Gilds*, 132.

73. Drake, *York*, ii. 182.

74. *Ib.*, 315.

75. E.g. at Chipping Sodbury, *Trans. Bristol and Glouc. Archæol. Soc.*, xiii. (1458-9), 8.

76. Taylor, *Index Monasticus* (for diocese of Norwich), xvii., note d.

77. *Survey*, ed. Morley, 114, 115. Cf. the instance of Winehelsey, quoted by Ratzinger, 423.

78. Will of 1417 in *Fifty English Wills*, 27. For other bequests to tenants, see *ib.* 6 (1395); 69 (1426: 20s. "pauperibus meis tenentibus," and 40s. "tenentibus meis in Comitatu Suffolkeie"); 94 (old gowns); Sharpe, *Wills*, pt. 2, 393 (1411); *Wills in Doctors' Commons* (Camden Soc.), 28, bequest of £100 to poor tenants in 1544 from Charles Brandon, Duke

of Suffolk. In the will of Sir Roger Salwayn of York, in 1420, we find—"If any tenant be so poor that he may nought for poverty pay his ferm that is owing, I will there be nought received of him, but that he may reasonably pay, and that the remanent be forgiven.—*Fifty Wills*, 52.

79. Sharpe, *Wills*, pt. 2, 132, 161, 172, 187, 265; *Fifty English Wills*, 14 (1408: "my will is that maidens of good name and good fame have 10 marks of my good to their marriage").

80. Sharpe, *u.s.*, 104, 107, 283, 392, 398, 509.

81. *Ib.*, 372, 373, 421, 422. A bequest to poor women and widows in a particular street, Lime Street, as early as 1376, is given, *ib.*, 189.

82. Bequests for *clothing* will be found *ib.*, 105, 114, 129, 142, 147, 150, 153, 157, 170, 178, 216, 285, 302, 343, 383, 402, 479; and in *Fifty English Wills*, 3, 49 (bequest in 1422 of £20 to clothe 200 poor men). A bequest in Sharpe, 333, provides for *shoes*; and one in *Fifty Wills*, 47, for *bedding* ("to five poor men that need bedding in the country about," to each a coverlet, a wytele (= blanket?), and 12*d.* of silver to pray for the testator's soul). Bequests for *fuel* (usually coal, but sometimes wood, or charcoal) will be found in Sharpe, 417, 513, 543, 570, 575, 586, 623, 632, 644, 647, 651.

83. *Bury Wills*, 17, 74; Sharpe, 265, 294, 296, 298, 319, 324, 348.

84. Sharpe, 1, 101, 163, 221, 315, 602; *Fifty Wills*, 14.

85. *Fifty Wills*, 113, 11, 27.

86. *Bury Wills*, 240 n.

87. *Select Works*, 16.

88. Harman, in *Rogues and Vagabonds*, 22.

89. "Schuf dort die Reformation zuerst eine hilflose Bettlerbevölkerung:" Döllinger, *qu.* by Ratzinger, 451.

90. Ribton-Turner, 571, 572.

91. Printed in *St.*, i. 307. It will be seen, on comparing this with what seems to have been really the first statute, that the proclamation is in more general terms. The act mentions the various classes of labourers intended, and prescribes the actual wage to be paid, *ib.*, 311.

92. "Quia multi validi mendicantes, quamdiu possent ex mendicatis cleemosinis vivere, laborare renuunt, vacando occiis . . . nullus sub poena imprisonamenti talibus qui commodè laborare potuerunt, sub colore pietatis vel elemosinae quicquam dare seu eos in sua desidia confovere presumat, ut sic compellantur pro vitæ necessariis laborare."

93. 34 Edw. III., c. 10; *St.*, i. 367. Eden makes so many mistakes in his account of this that he can hardly be supposed to have looked at the statute. It is especially important to observe that the branding was at the discretion of the justices. "Soit celle penance de l'arson mis

en respit tanq. al Seint Michael proschein avenir, et adonques ne soit mie execute sil ne soit per avis des justices."

94. *Rot. Parl.*, ii. 340.

95. 12 Rich. II., c. 3; *St.*, ii. 56.

96. "Fait a remembrer que servant on laborer puisse franchement departier hors de son service al fyn de son terme, et servir aillours, issint qil sort en certain ove qi, et eit autiel lettre come desus."

97. cc. 3, 5.

98. c. 7.

99. 6 Hen. VI., c. 3 (1427), 11 Hen. VII., c. 22 (1495); *St.*, ii. 233, 585.

100. 22 Hen. VIII., c. 12; *St.*, iii. 328.

101. Riley, *Memorials*, 304.

102. *Ib.*, 390.

103. The proclamation of 1349 began: "Quia magna pars populi et maxime operariorum et servientium jam in ista pestilentia est defuncta nonnulli videntes necessitatem dominorum et paucitatem servientium servire nolunt nisi salaria recipiant excessiva, et alii mendicare malentes in ocio quam per laborem querere victum suum, nos," etc. (*St.*, i. 307).

104. This is evident from the statutes. The contemporary chronicler, Knighton (2599, seq.), is quite plain-spoken. "The labourers," he tells us, "were so lifted up and obstinate that they would not listen to the king's command; but if any one wanted to have them, he had to give them what they wanted, and either lose his fruit and crops or satisfy the lofty and covetous wishes of the workmen."

105. Froude, *Hist. of England*, i. 13.

106. Rogers, *Hist. of Agriculture*, i. 299, et frequenter.

107. See Gower, quo. by Stubbs, *Const. Hist.* (Lib. ed.), ii. 494.

108. *E.g.* Passus ix. 37, 42 (Text C).

109. Passus vii. 95, seq. (Text A).

110. Uhlhorn, in *Handwörterbuch*, i. 827b.

111. Nitti, in *Econ. Rev.*, ii. 20.

112. Cf. Ratzinger, 394.

113. On Nominalism at Paris, see Ueberweg, *Hist. of Philosophy* (Eng. trans.), § 105; and on Major, the *Life* by Mackay prefixed to his *Greater Britain* (Scottish Hist. Soc., 1892).

114. See the account of Eck in the following chapter, and cf. the article on him in Palgrave's *Dict. of Pol. Economy*.

115. This seems to be the date suggested by Funk, *Geschichte des kirchlichen Zinsverbotes*, 58 n.; and Ehrle, 39, n. 1.

116. "Si princeps vel communitas statuatur ne sit mendicus in sua patria, et provideatur impotentibus, probe agit et quod quidem licet."



117. "Publicae mendicationis licentiam posse civium legibus cohiberi, ad liquidum ostendit ille absolutus Theologus, sine ulla controversia doctissimus Magister, Ioannes Major, qui in capite de eleemosynâ ait," etc., in *Forma Subventionis Pauperum*, Antverpiæ, 1531, fol. 13; in Ehrle, 39, n. 1.

118. Quoted in H. Wiskemann, *Darstellung der in Deutschland zur Zeit der Reformation herrschenden nationalökonomischen Ansichten*, 57.

119. Schmoller, *Zur Geschichte der nationalökonomischen Ansichten in Deutschland während der Reformationsperiode*, 71.

120. But see Uhlhorn, in the *Handwörterbuch*.

121. Wiskemann, 73, 74.

122. Vives's influence has been admirably treated, and for the first time, by Ehrle, who ignores, however, the contemporary movement of thought among the Protestant divines, and among city magistrates.

123. According to Ehrle, 29.

123a. See *infra*, 360, 361.

124. Schmoller, *Ansichten*, 72.

125. Uhlhorn, in *Handwörterbuch*, i. 829, col. 1.

126. Ehrle, 33, seq.

127. *Ib.*, 40.

128. *Forma Subventionis pauperum quae apud Hyperas Flandrorum urbem viget, universae Reipublicae Christianae longe utilissima*. Antverpiæ apud Martinum Caesarem, an. 1531.

129. Ehrle, 41, seq.

130. According to Ratzinger.

131. Ratzinger; and Reitzenstein, in Schmoller's *Jahrbuch*, v. 564, 566.

132. Cf. Stubbs, *Const. Hist.* (Lib. ed.), iii. 291.

133. Davies, *Southampton*, 294.

134. This begins in 1529: *Records of Nottingham*, iii. 364, seq.

135. *Ib.*, 399.

136. *Ib.*, iv. 110.

137. Harman, in *Rogues and Vagabonds*, 33.

138. The class of cottagers, descended from the *cottarii* and *bordarii* of earlier centuries, is certainly in large part the origin whence has arisen the body of agricultural labourers. Too little attention has hitherto been given, in England, to their history. The history of the similar class in Germany is now being investigated by a number of scholars, of whom Professor Hasbach is one of the best known.

139. *Utopia*, Robinson's trans. 41, 42 (Arber's Reprint).

140. 25 Hen. VIII., c. 13; *St.*, iii. 451.

141. Camelot ed., 124, 125.

142. It will be remembered that even as late as 1776 Adam Smith remarked of English artisans that "the greater part of such workmen are occasionally employed in country labour:" *Wealth of Nations*, bk. iv. ch. 2 (ed. Rogers, ii. 43).

143. Rogers, *Hist. of Agriculture*, iv. 270.

144. *Ib.*, 233, 234.

145. As to use of barley and maslin, see Eden, i. 117 n.; and for use of rye, Harrison (Camelot ed.), 96, 98; and Denton, *Fifteenth Century*, 317.

146. On "the terrible ten years' dearth" abroad, see Schmoller, *Ansichten*, 74-77.

147. *Utopia*, 38.

148. 3 Hen. VII., c. 1; *St.*, ii. 509.

149. *England in the Reign of Henry VIII.*, Part 2. Starkey's *Dialogue*, ed. Cooper (E.E.T.S.), 89, 90.

150. Lever's *Sermons*, 77, 78.

151. 27 Hen. VIII., c. 25; *St.*, iii. 558.

152. A mention of a parish-box made for the purpose will be found in the *Ludlow Churchwardens' Accounts* (Camden Soc.), 34.

153. An example of such a certificate is given in Eden, i. 129, following closely the form prescribed in an act of 1531, 22 Hen. VIII., c. 12, § 9; *St.*, iii. 331.

154. Schanz, *Handelspolitik*, i. 478 n.

155. That was clearly the general purpose of the act. But it must be observed that a proviso was added in the last clause (§ 28) which must have done much to counteract the good effects of the prohibition. In spite of the order that all persons, "bodies politic and others," should give their alms through the common-box, it was provided that "this act shall not be hurtful . . . to any abbots . . . or persons of the clergy that by any means be bound to give yearly, weakly or daily alms." This turned out to be harmless, owing to the dissolution of the monasteries. But it was also added that the act should not apply "to any person that riding, going or passing by the way shall, after his conscience or charity, give money or other thing to lame blind or sick aged or impotent people." This must be compared with the similar concessions to the old feeling as to charity in continental legislation.

156. 1 Edw. VI., c. 3, § 9; *St.*, iv. 7.

157. 2 & 3 Phil. and Mary, c. 5, § 5; *ib.*, 280.

158. 5 Eliz., c. 3, §§ 7, 8; *ib.*, 412.

159. 14 Eliz., c. 5, § 16; *ib.*, 593.

160. Reitzenstein, in Schmoller, *Jahrbuch*, v. 562.

161. Wodderspoon, *Ipswich*, 292.

162. Davies, *Southampton*, 296. The attention of the charitable was sometimes called from the pulpit to cases of peculiar distress.—*Hist. MSS. Com.*, v. 566b.

163. 2 & 3 Phil. and Mary, c. 5, § 7; *St.*, iv. 281. A copy of such a license is given in Ribton-Turner, 108 n.

164. *Records of Oxford*, 303 (1563), 430 (1582).

165. Davies, *Southampton*, 295.

166. Drake, *York*, ii. 102.

167. Harrison (Camelot ed.), 122; Stow, *Survey* (ed. Morley), 317; Lever's *Sermons*, 78; Sharpe, *Wills*, pt. 2, xxiv.

168. Quoted in Harrison, 123.

169. Ribton-Turner, 104; cf. 115, 120, 121, 122.

170. 14 Eliz.: in Wodderspoon, 291.

171. *E.g.* the almshouses of the Drapers and Mercers at Shrewsbury, (Hibbert, *Gilds*, 73); and the hospital of S. Bartholomew at Hythe (*Hist. MSS. Com.*, vi. 519b).

172. *Hist. MSS. Com.*, iv. 188a.

173. 43 Eliz., c. 2, § 12; *St.*, iv. 964.

174. 13 Eliz., c. 17; *ib.*, 552.

174a. On the "want of some system of providing employment" which, as Mr. Cunningham justly says, has been "the weak point of the whole English Poor Law," see his *Industry and Commerce* (ii. 60, 61), which has appeared since the present chapter was written.

175. § 1; *ib.*, 4.

176. 3 & 4 Edw. VI., c. 16; *ib.*, 115.

177. Eden, i. 127.

178. *Ib.*, 128.

179. *Ib.*, 130, 131.

180. *Ib.*, i. 103, n.

181. Booth, *Labour and Life of the People* (1889), i. 169, 594, 595.

182. For the House of Correction at Exeter, see Freeman, *Exeter*, 177. Edinburgh established a House of Correction in 1632, bringing as its first manager a "stranger expert therein" from Wakefield.—Maitland, 311. For the House at Dublin, see *Records of Dublin*, 38.

183. Ribton-Turner, 116-118, 125.

## CHAPTER VI.

### THE CANONIST DOCTRINE.

[AUTHORITIES.—Of the *Canon Law* itself an account has been given among the AUTHORITIES to Bk. I. ch. iii. The canonist literature has been so completely ignored in England that the student has perforce to turn to German treatises. Unfortunately the religious divisions of Germany have biassed almost all discussions of mediæval conditions; and upon the canonist teaching, or its main doctrine of usury, there is no treatise that can be regarded as impartial. The three scholars, Endemann, Funk, and Neumann, who have with most success dealt with the topic, are each marked by grave defects. Endemann (*Studien*, etc., vol. i., 1874, vol. ii., 1883; see AUTHORITIES to Bk. I. ch. iii.) has by far the most complete mastery of the canonist literature as a whole; but he is unsympathetic in his attitude towards the mediæval church, and misleading in his interpretation of the spirit of the canonist doctrine. Max Neumann's *Geschichte des Wuchers in Deutschland* (1865) attempts to build up the history of the prohibition of usury exclusively from secular laws and civic ordinances. He is as biassed as Endemann; with the additional defect, that his disregard of the canonist writings has led him to the mistaken belief in a peculiarly German development. Still, on such practices as the purchase of rent-charges, his materials throw a good deal of light, and usefully supplement the discussion of theory given by the other two writers. The *Zins und Wucher* of F. X. Funk (1868) is an extremely vigorous and, on the whole, successful piece of apologetic; but the writer's knowledge was then apparently confined to the moral theologians of the last two hundred years, and he seems to carry back to mediæval times doctrines which were only arrived at by the canonists of the seventeenth century. In his subsequent *Geschichte des kirchlichen Zinsverbotes* (1876), he has to a large extent removed this defect; and he has given especial attention to the utterances of the Schoolmen,—a side of the question somewhat disregarded

by Endemann. On the literary history of the canon law in the fifteenth and sixteenth centuries, especially in Germany, the treatise to consult is the learned, and in its field final, work of Roderick Stintzing, *Geschichte des populären Literatur des römisch-kanonischen Rechts in Deutschland* (1867), which has also some admirable remarks on the intellectual and social conditions of the period.

For a brief sketch of the canonist doctrine as a whole the reader may be referred, besides that given by Roscher in his *Geschichte*, to that by Bruder under the title *Zur ökonomischen Charakteristik des römischen Rechtes* in the *Zeitschrift für die gesammte Staatswissenschaft*, bd. xxxiii. h. 4 (Tübingen, 1877); and to the rose-coloured picture by Janssen in his *Geschichte des deutschen Volkes*, vol. i. pp. 432, seq. (15th ed. 1890). The writings of Contzen, frequently referred to in this connection, are valueless to the serious student; they display but little original research, and are made up in large part by the quotation of general remarks from others. Some further bibliographical indications are given in the brief paper by L. Cossa, *Di alcuni Studj recenti sulle Teorie economiche nel Medio-evo*, in *Rendiconti del R. Istituto Lombardo*, ser. ii. vol. ix. (1876).

On the attitude towards economic questions of the German reformers there are two very useful works: Gustav Schmoller, *Zur Geschichte der nationalökonomischen Ansichten in Deutschland während der Reformationsperiode*, in the *Tübingen Zeitschrift*, bd. xvi. h. 3 and 4, and separately (1861); and H. Wiskemann, *Darstellung der in Deutschland zur Zeit der Reformation herrschenden nationalökonomischen Ansichten* (1861). The matter in the latter is arranged under authors, in the former under subjects; and the former is therefore somewhat the easier to consult. It will appear from the following chapter that the relation between the economic ideas of the reformers and those of the earlier mediæval theologians was closer than would appear from these treatises.

A very necessary supplement to the above works is afforded by modern histories of commercial law, which are all the more useful since they look at the subject from a very different point of view. The first volume of L. Goldschmidt's *Handbuch des Handelsrechts*, containing the *Universalgeschichte* (new ed. 1891), is rich in information. On the early history of the law of partnership, the essays of W. Silberschmidt, *Die Commenda in ihrer frühesten Entwicklung* (1884), Max Weber, *Zur Geschichte der Handelsgesellschaften im Mittelalter* (1889), and F. G. A. Schmidt, *Handelsgesellschaften in den deutschen Stadtrechtsquellen* (1883, in Gierke's *Untersuchungen*, xv.), are important; and that of Weber bears immediately on the relation of usury to trade.

The broad outlines of the history of usury in England can be traced with the aid of Langland, Wyclif, the London ordinances in the *Liber Albus* (conveniently consulted in the trans. by H. T. Riley, 1861), and the statute-book. The position of opinion in the Reformation period is best studied by reference to Bullinger's *Decades*, ed. Parker Soc. (1857); and the special treatises of Jewel (in *Works*, ed. Parker Soc., 1847, 1850) and Thomas Wilson, *Discourse upon Usury* (1572), both of which had great influence on subsequent writers. A very curious and detailed discussion of the whole subject at the end of the century is presented in Miles Mosse's *Arraignment and Conviction of Usury* (1595).

Lassalle's argument as to capital being a "historical category" will be found in his *Herr Bastiat Schulze von Delitzsch, oder Capital und Arbeit* (1864); of which there is a French translation by Malon (1880). His application of the same idea to juristic conceptions is given in his *System der erworbenen Rechte* (1861; new ed. 1880). The present position of the usury law in Germany, and the circumstances which led up to it, may be seen in an article by Eheberg in the *Jahrbücher für Gesetzgebung*, ed. by Holzendorf and Brentano (1880), and in a brief form in Wagner's article on *Credit* in Schönberg's *Handbuch der Politischen Economie*.]

§ 63. THE later years of the fifteenth century were marked by the appearance, for the first time in literature, of a complete and systematic economic doctrine,—a body of teaching with interconnected parts, and touching every side of the economic life of the time. This doctrine was that of the canon law. Not that it was expounded only by canonists; for it was maintained and amplified by jurists and theologians outside the circle of that special profession; but in the canonical jurisprudence it found its peculiar home and received its characteristic elaboration. It differed from modern economics in being an "art" rather than a "science"—to use a distinction made current by modern English writers.<sup>1</sup> It was a body of rules or prescriptions as to conduct, rather than of conclusions as to fact. All "art," indeed, in this sense, rests on science; but the science on which the canonist doctrine rested was theology. Theology, or rather that branch of it which we may call Christian ethics, laid down certain

principles of right and wrong in the economic sphere; and it was the work of the canonists to apply these to specific transactions and to pronounce judgment as to their permissibility. But without intending to minimize in any way the obvious distinction between the statement of what men as a matter of fact do in their relation to material goods, and the statement of what men should do in order to satisfy a particular moral standard, it may be pointed out that the contrast is hardly so great as might at first sight appear. For, on the one side, strictly economic considerations,—considerations as to the effects of particular actions on the economic condition of individuals,—could not be, and were not, altogether absent from the discussions even of mediæval theologians. They certainly played some small part consciously, and, as we shall see later, they probably played a great part unconsciously, among the criteria of morality. On the other side, it is to be observed that the conception of political economy as primarily a “science” is one that dates only from Adam Smith;<sup>2</sup> and that even English economists have of late found it impossible to restrict themselves to purely “scientific” exposition.<sup>3</sup> Moreover, even English economists are finding it necessary to take into account certain popular conceptions, such as that of “fair wages,” which the last generation of economists contemptuously disregarded; and these conceptions are in many cases essentially the same as those which influenced the mediæval theologian.<sup>4</sup> If there is this slight link of sympathy between the canonist of the Middle Ages and the English economist, with an influential group of recent German economists the bond is far stronger. For they, at any rate, are ready to allow that political economy ought to “treat material interests as subordinate to the higher ends of human development;”<sup>5</sup> and, although the modern defini-



tion of these "higher ends" may differ from the mediæval, in recognizing the need of an ethical standard they occupy substantially the same ground as their theological fore-runners.

However the canonist theory may contrast with or resemble modern economics, it is too important a part of the history of human thought to be disregarded. Just as we cannot fully understand the work of Adam Smith without giving some attention to the physiocrats, nor the physiocrats without looking at the mercantilists; so the beginnings of mercantilist theory are hardly intelligible without a knowledge of the canonist doctrine, towards which that theory stands in the relation partly of a continuation, partly of a protest. The history of economic theory is too often regarded as a museum of intellectual odds and ends, where every opinion is labelled as either a surprising anticipation of the correct modern theory, or as an instance of the extraordinary folly of the dark ages. A fitter, though of course not a complete, analogy,—for no analogy can be complete,—would be that of a stream which may indeed change its size and direction, but has throughout a continuity of movement. It need hardly be added that only by the aid of the economic thought of the period can we realize to ourselves its economic life; and yet attention was given to the history of commerce some time before it was thought to be anything but "useless and disagreeable,"—to use J. B. Say's phrase,<sup>6</sup>—to collect exploded opinions.

The canonist doctrine of the fifteenth century was but a development of the principles to which the Church had already given its sanction in earlier centuries. It was the outcome of these same principles working in a modified environment. But it may more fairly be said to present a *system* of economic thought, because it was no longer a col-

lection of unrelated opinions, but a connected whole. The tendency towards the formation of a separate department of study is shown by the ever-increasing space devoted to the discussion of economic topics in general theological treatises; and more notably still in manuals of casuistry for the use of the confessional,<sup>7</sup> and handbooks of canon law for the use of ecclesiastical lawyers.<sup>8</sup> It was shown even more distinctly by the appearance of a shoal of special treatises, both from the casuists and the canonists, on such special subjects as contracts, exchange, and money,<sup>9</sup> not to mention those on usury. The genesis of such treatises, together with the widespread public interest in this particular department of theology, is illustrated by the fact that many of them, like that of Biel, "the last of the Schoolmen," *On the Power and Use of Money*, appeared first as parts of systems of dogmatics, and were afterwards reprinted in a separate form.<sup>10</sup>

The peculiarly rapid growth of the canonist doctrine in the later part of the fourteenth century was due to many causes, besides the expansion of trade and the appearance of new business methods. It must be remembered that it was not until the Council of Vienna in 1311 that the Western Church took the final step of absolutely refusing to recognize all secular legislation in favour of usury,—and the prohibition of usury was the central point of canonist teaching.<sup>11</sup> This declaration was speedily re-echoed by provincial synods in the several states;<sup>12</sup> and in these decrees the canonists and theologians first found a solid and satisfactory basis for the further construction of theory. Then, again, it was not until the middle of the fourteenth century that that incorporation of the prohibition of usury in the civil law took place,<sup>12</sup>—a step which led in large measure to the fusion of law and theology, and helped to give the economic teachings of the later Middle Ages their peculiar colour.<sup>13</sup> Hence-

forward the civil lawyers in their treatises on commercial law all recognize the prohibition of usury as of binding force, and sometimes become more theological than the theologians themselves;<sup>14</sup> while the canon lawyers, on the other hand, adopt more and more the methods of their civilian rivals, so that they are sometimes hardly to be distinguished from them.<sup>15</sup> Moreover, the theologians, in the narrower sense of the term, whose treatises were composed primarily for the guidance of confessors, while they usually took the main conclusions of the canonists as the basis of their arguments, and indeed cited even the civilians,<sup>16</sup> assisted the lawyers in their definition of the legal by subtle analysis of the morally justifiable. This curious fusion of two studies seemingly so remote as law and theology, is of course to be explained largely by the fact that many lawyers were in orders, and that the study of the civil and the canon law was usually combined.<sup>17</sup> Finally, in considering the reasons for the development alike of scholastic philosophy, of casuistry and of canon law, we must not omit the increase in the number of the universities,<sup>18</sup> and the occasion for minuteness and prolixity furnished by academic lectures.

It has, indeed, not infrequently been hinted that all the elaborate argumentation of canonists and theologians was a "cobweb of the brain," with no vital relation to real life. Certain German writers have, for instance, maintained that alongside of the canonist doctrine with regard to trade, there existed in mediæval Europe an independent commercial law recognized in the secular courts, and altogether opposed to the peculiar doctrines of the canonists. It is true that parts of mercantile jurisprudence, such as the law of partnership, had, to a large extent, originated in the social conditions of the time, and would probably have made their appearance even if there had been no canon law or theology.<sup>19</sup>

But though there were branches of commercial law which were in the main independent of the canonist doctrine, there were none that were opposed to it. On the fundamental points of usury and just price, commercial law in the later Middle Ages adopted completely the principles of the canonists.<sup>20</sup> How entirely these principles were recognized in the practice of the courts which had most to do with commercial suits, viz. those of the towns, is sufficiently shown by the repeated enactments as to usury and as to reasonable price which are found in the town ordinances of the Middle Ages;<sup>21</sup> in England<sup>22</sup> as well as in the rest of Western Europe.

The question of the connection between canon law and commercial jurisprudence has, indeed, hitherto been only considered in its relation to the Continent. In England, the history of mediæval law has as yet scarcely been investigated; and the dogma of the non-reception of the civil law in England has caused the legal development of that country to be regarded as altogether exceptional. But certainly there is nothing in the non-judicial literature of the English Middle Ages to make us believe that the views of the governing classes in England on economic matters differed appreciably from those of the same classes elsewhere. If the civil law was in theory unrecognized in the secular courts, and the canon law recognized only in part in the ecclesiastical,<sup>23</sup> "the great compilations" of the civilians and the canonists were, as has been well remarked, "the sole legal teaching that was to be obtained in the schools where Englishmen went to learn law;" and although the common law judges might not be canonists or civilians, "the statesmen in many cases were."<sup>24</sup> The circumstance that the administrative officials had in England, as elsewhere, usually received some part of their training in canon or civil

law, or both,—and, owing to the similarity of the two in economic matters, a training in either would be sufficient for the purposes of our argument,—must necessarily have affected legislation and also the practice of the courts. Take, for instance, the instruction in the first Statute (or Ordinance) of Labourers, in 1349, that in determining the “reasonable prices” of victuals, regard should be paid (1) to the prices at adjoining places, and (2) to the cost of transport;<sup>25</sup> or that in the Statute of Kilkenny, that prices should be assigned to imported victuals by the town magistrates in accordance with (1) the first cost of the goods, and (2) the expense of transport.<sup>26</sup> We can hardly suppose that rules like this were laid down altogether without regard to the precisely similar prescriptions of the canonist doctrine.<sup>27</sup> If, indeed, this was the case,—if economic legislation, even in the second half of the fourteenth century, was, as has been argued,<sup>28</sup> purely empirical, and guided entirely by rule of thumb,—even then it must be allowed that the canonist doctrine, which was governed by the same main ideas, was, at any rate, as near to the real life of the time as the legislation. And analogy would suggest that the training in canonist doctrine, which most mediæval officials received, would be likely to affect them much in the same way as the modern German bureaucracy has been influenced by the economic teaching that forms part of its professional studies.

Whatever may have been the effect, direct or indirect, of the canonist doctrine on legislation, it is certain that on its other side, as entering into the moral teaching of the Church through the pulpit and confessional, its influence was general and persistent, even if it was not always completely successful. Attention has already been called to the popularity of the *Ayenbite of Inwyrt* as a manual for confessors, and to

the character of its teaching on avarice:<sup>29</sup> the fact that it was translated from the French makes it evident that to its translator there was no substantial difference between English and French conditions. *The Instructions for Parish Priests*, the work of John Myrc, about the middle of the fifteenth century, similarly illustrates the attempt to impress upon the mind of the people the main principles of the Church's teaching as to worldly goods.<sup>30</sup> Even much later, when the old order was breaking down, and the earnest Protestant divine and verse-writer, Crowley, reminds the merchant that

"The end why all men be create,  
As men of wisdom do agree,  
Is to maintain the public state;"

that

"Thy riches were given to thee  
That thou might'st make provision  
In far countries for things that be  
Needful for thine own nation;"

and urges him to

"Content thyself with a living,"<sup>31</sup>

he is doing little more than put into rhyme what Aquinas and all the great Schoolmen of the Middle Ages had constantly insisted upon.

§ 64. The canonist doctrine as to material goods and economic activity was dominated by a few main ideas which stood in close relation to one another, and formed the groundwork of their system. These ideas, as we find them in the fourteenth and fifteenth centuries, we may now briefly review. For convenience of exposition, it will be desirable to arrange them in a certain sequence, and to call attention to the links of thought by which they were consciously or unconsciously connected. But the reader will guard himself

against supposing that any mediæval writer ever detached these ideas from the body of his teaching and put them together, as a modern text-book writer might do; or that they were ever presented in this particular order, and with the connecting argument definitely stated. Every one of the principles, however, that will be presented is one that the mediæval writers did themselves distinctly lay down. We must be careful neither to interpret the writers of the fifteenth century by the writers of the seventeenth, nor to read modern abstract discussions into utterances which were in reality simple and naïve enough.

Modern English economists have usually assumed that every man is guided by self-interest; that every one is moved by the desire of wealth. They explain that in so doing they do not imply any moral approbation of such motives; they take human nature as they find it, and this assumption they urge is sufficiently near the truth to serve as a basis for reasoning. Whatever may be their opinions as individuals, their attitude as economists is one of mere observation. Yet, beyond all question, the general educated public, who have no special acquaintance with the subject, have somehow received the impression that economists and political economy not only assume, but also inculcate, the pursuit of material self-interest.<sup>32</sup> This is indeed absurdly untrue of the leading economists of to-day. How far it is true of the earlier economists of this century; how far the impression has been due to the stupidity of the public; how far it has been the inevitable result of an exclusive occupation with the action of one motive on the part of the earlier economists,<sup>32a</sup> would take us too far afield to attempt to determine. But certainly such an impression has been created; and it is still very generally prevalent.

The mediæval writers, on the other hand, with whom we



are now dealing, absolutely condemned the pursuit of wealth as an end in itself.<sup>33</sup> *Avarice* was one of the seven deadly sins; and avarice was understood in a far larger sense than the petty delight in miserly acquisition which is all we mean by it now. It is significant that one of the best modern dictionaries of synonyms defines "avaricious" as "eager for gain, *for the sake of hoarding it.*"<sup>34</sup> To the mediæval theologian an "eagerness for gain," beyond that necessary to maintain a man in his rank in life, was in itself avarice, and therefore sin. It may be urged that the economic teaching of the Middle Ages was really a branch of theology; and that modern political economy, being a science of observation, leaves to theology or ethics the uttering of moral judgments.<sup>35</sup> But the duty thus handed over has obviously not been taken up. No such sustained and far-reaching attempt is being now made, either from the side of theology, or from that of ethics, to impress upon the public mind principles immediately applicable to practical life.<sup>36a</sup> Possibly, with the diminution of the cruder forms of wrong-doing, the duty is not so pressing; perhaps it was at no time wisely undertaken. But how constantly the effort was made in the later Middle Ages, a glance into the literature of the time is sufficient to show. For the discussion of the moral character of various forms of economic activity was not confined to ponderous theological treatises, intended only for specialists. It is found, as we have already seen, in manuals for the confessional and the pulpit, intended for the average parish priest; as well as in tractates intended for the general reader. Thus Wyclif, in his tract on the *Seven Deadly Sins*, though his reproaches under the head of Avarice are chiefly directed against the clergy, "the first part of the Church," does not fail to notice how the same sin mars the other two parts: the

“men of nobley, fro’ kyngis unto squireys,” as well as “the comynate.” “Riches of this world that God hath granted lords should be sufficient to them, with a little prudence.” Among the commons the “merchants and men that would be rich” are chiefly to blame. “God, that knoweth all things, shall judge men by their purpose.”<sup>87</sup> Still more convincing is the *Parson’s Tale*, or sermon, in *The Canterbury Tales*; for though it is probably a free translation from some tractate by a professed theologian, it doubtless gives us the sort of exhortation that a kindly man of the world like Chaucer thought in keeping with his “good parson,” “in his teaching discreet and benign.” Avarice the parson defines, following S. Augustine, as a lust after earthly things; and he characterizes it, following the canons, as mere idolatry. He does not confine himself to vague generalities, but gives an instructive example, which is no other than that extreme enforcement of the legal rights of the lords of land which prepared the way for the modern system of competitive rents. “Through this cursed sin of avarice . . . come those hard lordships, through which men are distrained by tallages, customs, and cariages, more than their duty or reason is; and eke take they of their bondmen amercements, which might more reasonably be called extortions than amercements.”<sup>88</sup>

But if the pursuit of wealth for its own sake was sinful, how were the ordinary activities of life to be justified? The answer to this question was given by another dominant idea of mediæval thinkers,—the idea of status or class. Men, they taught, had been placed by God in ranks or orders, each with its own work to do, and each with its own appropriate mode of life. That gain was justified, and that only which was sought in order that a man might provide for himself a fit sustenance in his own rank. Thus Chaucer’s

Parson tells us that "God has ordained that some folk should be more high in estate and in degree, and some folk more low, and that every one should be served in his estate, and in his degree." Were it not for this, "the estate of holy Church might not have been, the common profit kept, nor peace nor rest on earth."<sup>39</sup> Wyclif repeatedly recurs to this idea in his sermons and tracts; in this, as in so much else, only following the teaching of the great Schoolmen: "A man should wit to what state a man is called of God, and after the office (or duty) of this state serve his God truly, as the diverse members serve the body in their kind."<sup>40</sup> The "three parts of the Church" he describes in one place as "priests and gentil men and labourers,"<sup>41</sup> in another as "clerks, lords, and commons."<sup>42</sup>

There is the less need to dwell upon this doctrine of predetermined class distinctions, because it still survives in many quarters. In the Middle Ages, as now, it was used to inculcate lessons of obedience on the part of inferiors.<sup>43</sup> But it must be remembered that class distinctions were then as a matter of fact much more rigid and sharply marked than they are now; and also that the doctrine was employed with as much readiness to protect the weak as to keep them in "their place." Crowley, writing in the middle of the sixteenth century, does but put it into popular form, when addressing the "gentleman"—

"Thou that art born to land and rent,  
And arte cleped a gentleman"—

he says—

". . . As thou dost hold of thy king,  
So doth thy tenant hold of thee,  
And is allowed a *living*,  
*As well as thou, in his degree.*"<sup>44</sup>

With the canonists, this idea of class duties and class standard of comfort is either explicitly or implicitly referred to as the final test in every question of distribution or exchange. Thus Langenstein,—who, after being vice-chancellor of the University of Paris, was called to teach at the new University of Vienna in 1384,—lays down that every one can determine for himself the just price of the wares he may have to sell, by simply reckoning what he needs in order to suitably support himself in his rank in life.<sup>45</sup> And he tells the lords of land that their only just claim to their rents is founded on their fulfilling the duties of their class, and rightly governing and protecting those subject to them.<sup>46</sup>

It is evident that the simple division of the laity into “lords and commons,” “gentlemen and labourers,” could have been adequate only in the earlier and purely agricultural stages of feudal society. The position of the early craftsmen was probably sufficiently like that of the villeins for there to be little difficulty in allotting them to their proper class. But when a body of merchants made its appearance, it was not so easy to account for men whose obvious aim was to make profit. We have seen that there was a disposition among some of the Fathers to put trade under the ban.<sup>47</sup> But although traces of this phase of thought are to be found in the earlier canon law, it exercised no practical influence over the teaching of the later Middle Ages.<sup>48</sup> Canonists and theologians accepted without hesitation the justification of trade formulated by Aquinas, “Trade is rendered lawful when the merchant seeks a moderate gain for the maintenance of his household, or for the relief of the indigent; and also when the trade is carried on for the public good, in order that the country may be furnished with the necessaries of life, and the gain is looked upon not as the object, but as the wages of his labour.”<sup>49</sup>

The moralists usually justified trade,—as Chaucer's Parson did, following Aquinas,—by a reference to the supply of the country's needs: "It is honest and lawful that of the abundance of [one] country men help another country that is needy."<sup>50</sup> As a *measure* of just gain they fell back, as Aquinas had done, on the usual test,—the standard of living of the class. This was a test which was more likely to seem applicable to real life then than now. The strong bent of political life towards the formation of "estates," the obstacles in the way of competition, the customs of the trading companies, the sumptuary legislation and a number of other forces, all tended to throw men into clearly recognized social grades. But it is evident that the test allowed so wide a margin that it was much less applicable, practically, to the case of a merchant than to the case of a country squire with his customary receipts from his tenants, or to the case of a yardling living amidst his fellows. It was indeed foreign trade which did more than any other force to break down the mediæval social order.

It may be mentioned, in passing, as an illustration of the persistence of particular arguments, and even of particular phrases, that the language of Aquinas just quoted is reproduced word for word as late as 1615, in a work whose importance has been absurdly over-estimated, but which is nevertheless of interest as bearing for the first time on its title-page the words, "Political Economy," viz. the treatise of Antoyne de Montchrétien.<sup>51</sup> How far, on the other hand, the fathers of modern political economy had moved away from the mental position of the mediæval churchman we may be reminded by the famous argument of Adam Smith, that merchants are best left to follow their own gain without any thought of the public welfare, since an "invisible hand" always overrules their selfishness for the common

advantage. "I have never known much good done by those who affected to trade for the public good. It is an affectation, indeed, not very common among merchants, and very few words need be employed in dissuading them from it."<sup>53</sup>

The view which regarded the shares obtained by individuals in the *distribution* of wealth as the return for the performance of the duty which their rank imposed upon them was closely connected with another as to the *production* of wealth. It has been usual until recently, with the rank and file of modern economists, to speak of three "factors," "instruments," "agents," or "requisites," in production, viz. land, labour, and capital, and to put them all on very much the same level of importance.<sup>53</sup> Mediæval thinkers saw but two, land and labour. The land was the ultimate source of all wealth;<sup>54</sup> but it needed human labour to win from it what it was able to provide. Labour, therefore, as the one element in production which depended on the human will, became the centre of their doctrine.<sup>55</sup> All wealth was due to the employment of labour on the materials furnished by nature; and only by proving that labour had been engaged in bringing about the result could the acquisition of wealth by individuals be justified. "God and the labourer," as one widely-read theologian expressed it, "are the true lords of all that serves for the use of man. All others are either *distributors* or beggars;" and he goes on to explain that the clergy and gentry are *debtors* to the husbandmen and craftsmen, and only deserve their higher honour and reward so far as they fitly perform those duties, as "ruling classes," which involve greater labour and greater peril.<sup>55a</sup> The doctrine had thus a close resemblance to that of modern socialists: labour it regarded both as the sole [human] cause of wealth, and also as the only just claim to the possession of wealth. It differed from modern socialist teaching only

in allowing different kinds of services to society to be remunerated at very different rates. Yet it would certainly have visited with a similar condemnation the acquisition of wealth by sheer speculation, or by the manipulation of the market.

The influence of this conception of labour is seen in every part of the canonist doctrine. Thus, trade profits, so far as they were justified, were regarded as quasi-wages (*quasi-stipendium* <sup>56</sup>),—as reward for the labour of transport.<sup>57</sup> The profits of the exchanger, so far as they were justified, were the reward for the labour of carrying the money from place to place;<sup>58</sup> and the same idea was applied to the analysis of every economic phenomenon. We may for the present leave untouched the question how far it is true that the canonists failed to realize the nature of capital; and the further question how far, if they did so fail, the explanation is to be found in the conditions of the period. Certainly they did not group together certain forms of wealth, employed for a particular purpose, under a general conception or designation.

The absence of any such conscious grasp of the conception of capital as we now possess may, indeed, be traced back to the absence of a still more fundamental idea in modern economies—the idea of exchange-value (or of “value” itself in the limited sense attached to the term by English writers).<sup>59</sup> The thinkers of the Middle Ages only very gradually worked their way from the conception of a number of particular things possessing a value-in-use-to-particular-persons, to the conception of general purchasing or exchanging power.<sup>60</sup> Their thought was dominated by what Lassalle has called the “*Besonderheit*,” or “*Particularité*,” of the Middle Ages,<sup>61</sup>—when seigniorial authority was made up of a multitude of definite and defined rights, when



trade and manufacture were carried on by special bodies, in special places, with special privileges, when the whole of life was composed of measured services and regulated duties. The place of general conceptions was then occupied by groups of specified details. Moreover, the conception of exchange-value is, after all, a secondary and historical one; not a "logical antithesis" to value-in-use; not a subdivision of the conception "value" equal in inevitableness to value-in-use.<sup>62</sup> The conception of exchange-value could only come into existence as goods and services began to be increasingly exchanged one for another, instead of being made for the makers' own use; as they began to be increasingly reckoned in the same measure of value, and thus comparison became easy; *i.e.* when a "money-economy" supplanted a "natural-economy."<sup>63</sup> The growth of the conception must have followed, and could not precede the growth of the fact. It may be allowed that the thought of the canonists in this respect lagged behind the progress of circumstances; how far, we may discuss when we come to deal with the similar question as to money. But it is easy to see how the absence of the idea of exchange-value must have affected their speculation. Money could be regarded by them simply as so many particular things, *i.e.* coins: the thought that, when it was paid away for a commodity, the "value" or purchasing power of it had but passed over to or been replaced by the commodities thus received, could never occur to them.<sup>64</sup> Thus, money must be to them a "consumptible."<sup>65</sup> There was not, therefore, in their eyes, a "use" of it which could be let, in the same way as the use of fungibles could be, *e.g.* a field; and accordingly they could not regard a payment made on such a ground as in any way justifiable.<sup>66</sup>

§ 65. The prohibition of usury was clearly the centre of the canonist doctrine. That prohibition, as it is ordinarily

interpreted, and indeed as it was actually formulated in some few passages by some of the Fathers,<sup>67</sup> would have prevented every sort of investment of capital for the sake of gain, except in the owner's own business. But there certainly was a steady growth of capital and of investment, especially in trade, in the later Middle Ages; and for this investment methods were found which did not conflict with the prohibition of usury, and which one after the other received the approval of the Church, either by official declaration, or by acquiescence in the judgment of authoritative writers. This process it will be worth while to study in some detail, and that for several reasons. It is called for in justice both to the canonist doctrine and to the mediæval Church. Modern critics have been unduly, though unconsciously, influenced both by religious prejudice<sup>68</sup> and by *laissez-faire* optimism. As they present the matter, the mediæval Church and mediæval thinkers generally were guilty alike of the stupidity of endeavouring to maintain a rule which was hopelessly in conflict with the necessities of real life, and of the duplicity of acquiescing in (and, indeed, often of contriving) what every man of common sense must have known to be mere subterfuges.<sup>69</sup> It may be that further consideration may suggest a modification of this verdict, or, at any rate, a suspension of judgment. And an examination of the theoretical justification of various forms of investment is also necessary for a right perception of the true character of post-mediæval economic opinion. It is often vaguely imagined that the discovery of the New World, and the other great events which mark the close of the Middle Ages, created a wave of fresh and original economic thought, which at once washed out all the traditions of the past. But the more the movement of thought is examined, the slower does it appear, and the more obvious and close are the links between

the speculations of each period. One of the principal characteristics of the mercantilist teaching, the exaggerated importance attached to money, was indeed, in some respects, the very opposite of the early canonist doctrine. But the mercantilist view of money did not come into existence all at once; we can trace the preparation for its advent in the slow modification of the canonist doctrine itself. The same is true of such conceptions as capital, value, and competition. The later canonist dialectic was the midwife of modern economics.

The progress of events was so far uniform all over Western Europe that we are justified in stating the results of recent investigation as to Europe generally, before discussing the special line of English development. It would be necessary to do this for the present, if there were no other reason, just because English commercial law and the later English scholasticism have never yet been subjected to critical examination.

There were two methods more universally used than any others of securing a return for the investment of capital, and their prevalence has left its mark upon language. These were the method of *Interest*, and the method of *Rent*, or *Rent-Charges*. To the former, England, France, and Italy owe their modern term for every payment for the use of money; to the latter, Germany owes its term for the same thing, *Zins* (i.e. *Census*, i.e. *Rent*); and these differences in language would seem to indicate that the former was more commonly employed in some countries, and the latter in others. And first as to interest, of which a preliminary but incomplete account has already been given in an earlier section.<sup>70</sup>

It is probably a mistake to suppose<sup>71</sup> that the payment of *interest*, in the narrow and original sense of the word,—i.e.

a compensation not for the loan of money, but for the loss suffered by the lender in consequence of the loan,—was consciously devised as a means of evading the usury prohibition. It may easily have grown out of the general conditions of the time, uninfluenced by Church teaching. Men have at all times failed to pay their debts; and long experience has at last taught that no remedy can be provided except the application by the general public of the very insufficient penalty of the withdrawal of credit. But it has taken society many centuries to find this out, as is sufficiently shown by the retention of imprisonment for debt until almost our own day. The men of the earlier Middle Ages adopted still ruder expedients to compel a defaulting debtor to meet his obligations. Thus, according to the early barbarian codes, the defaulting debtor was to become the slave of the creditor;<sup>72</sup> and as there was seldom any limit fixed to the period of servitude, the creditor might easily obtain a quantity of labour far surpassing in value the amount of the debt.<sup>73</sup> In later centuries it was a common rule that the debtor should put himself into the custody of the creditor, or send into that custody a number of his retainers on his behalf until the debt was paid.<sup>74</sup> A promise to submit to such means of coercion was sometimes given by borrowing princes as late as the sixteenth century; and as the debtor's representatives usually fared sumptuously at the inn where they put up, and the debtor had in the long run to pay this account, the capital sum was increased by the addition of a very considerable penalty.<sup>75</sup> The substitution of a fixed money penalty when a contract was not duly performed, was an obvious improvement on these rude devices; especially when the courts began to allow a distraint to be made on the debtor's property, or when the creditor received into his hands a pledge whose value exceeded the debt, or could

have recourse to sufficient sureties. Accordingly, a very general practice grew up of attaching to the original contract an agreement as to the penalty to be paid in case of default—the *pœna conventionalis*; and this penalty was commonly the addition of a sum equal to the original debt.<sup>76</sup> To this penalty came to be applied, from a phrase in the code of Justinian, the term *interest*; i.e. *that which is between, or the difference* between the creditor's present position and what it would have been had the bargain been fulfilled.<sup>77</sup> As it was obvious that the injury to the creditor would in most cases increase with the length of the delay in repayment, it was a very natural further step to substitute for a fixed sum a percentage reckoned periodically; and occasional examples of this are found both in England and Germany in the first half of the thirteenth century.<sup>78</sup>

The division of interest into the two cases of *damnum emergens* and *lucrum cessans* may certainly be traced back as far as the great civilian Accursius,<sup>79</sup> the period of whose teaching falls within the years 1220–1260.<sup>80</sup> Around these two terms turned all the subsequent theological and canonist discussion. As to the justice of a compensation for the *damnum emergens*,—for a loss or injury actually received by the creditor through the debtor's default,—there was never any doubt among the great theologians. It was recognized by Alexander of Hales (d. 1245), the first of the schoolmen who, in his doctrine of usury, went outside the Biblical command, and sought to strengthen the church position by philosophical and juristic arguments;<sup>81</sup> it was accepted also, as already noticed,<sup>82</sup> by Aquinas (d. 1274), whom succeeding schoolmen and canonists followed without hesitation. If a loss did arise to the creditor, it was but fair that the borrower should recompense him. The one essential condition was that a real damage should have been occasioned;

and it was precisely at this point that difficulties presented themselves. Cases might easily be imagined in which loss might be incurred; from the time, indeed, of S. Bernardine of Sienna (d. 1444) it was usual to quote the cases instanced by him, in which a surety, or the lender himself, on account of the failure of the debtor, had been obliged to borrow money and pay interest for it.<sup>63</sup> But, of course, the more successful the authorities of Church and State were in suppressing usury, the less generally possible such a case would be; and, even if it were possible, the canonist theory demanded proof in each instance that the necessity had in fact arisen, and that it had been causally connected with the conduct of the debtor.<sup>64</sup> Frequently no sufficient proof could be adduced; and it was this that gave peculiar importance to the discussion of the other branch of the subject, viz. *lucrum cessans*. The civil lawyers, as early as the middle of the fourteenth century, had pointed out that the two conceptions of "actual loss incurred" and "certain gain lost" were very closely connected. They had preferred to speak of a "near" and a "remote" interest;<sup>65</sup> and their teaching was sure to influence the theologians. Aquinas had, indeed, disapproved of any such bargain to compensate for lost profit; and for a time his authority carried most theologians with him. But he had given a reason for his decision; and it could quite fairly be argued that when and where that reason was invalid the conclusion also could be departed from. His reason was that the lender "could not sell" (i.e. contract to be recompensed for the loss of) "what he had not yet got, and *might in so many ways be prevented from getting*."<sup>66</sup> Precisely the same thought recurs with Luther, whose revolt against the later scholasticism is in this, as in some other points, but a return to the earlier scholasticism. "If I have 100 gulden, and try to make profit therefrom in

business, a hundred risks may befall me and cause me to gain nothing; indeed I may even lose, and that fourfold. I may be hindered by sickness; I may be unable to obtain my goods," etc.<sup>87</sup> The essence of this argument was that even if the loan were repaid, there was no great probability that the lender would be able to secure a profit by its employment; an argument which was much more likely to be true of Aquinas's time than of Luther's. As in the course of the fourteenth and fifteenth centuries the opportunities for reasonably safe and profitable business investments increased, the great theologians and canonists, following the real thought of Aquinas, came to regard the contract for the recompense of the *lucrum cessans* as morally justifiable. Even some of the contemporaries of Aquinas among the canonists had held this opinion;<sup>88</sup> so that during the following century, the fourteenth, it could hardly be regarded as distinctly under the ban of the Church; and in the fifteenth it was certainly very generally accepted by the best theologians.<sup>89</sup>

Loss to the creditor, owing to his inability to invest again to his profit a sum of money which his debtor had failed to repay, soon became so much more usual and important a consideration in business than damage of any other kind, that the term *interest* came to be specially associated with *lucrum cessans*; and it was usual, at any rate in Germany, to distinguish "interest et damna," "Interesse und Schaden."<sup>90</sup>

But the recognition by the canonist theory of the justice of the payment by no means dispensed with the requirement that the creditor should be able to prove, if called upon, that he really had lost an opportunity for profitable investment; although it was granted that the proof need only be one of probability.<sup>91</sup> This, of course, would be no formidable obstacle in the way of lenders of money in the commercial



centres; but it might enable a fraudulent debtor to embarrass his creditor; and accordingly it came to be generally conceded by the canonists,—following the teaching of the distinguished jurist Paul de Castro (d. 1441), whose authority was especially weighty in the ecclesiastical courts at Rome,—that in the case of the merchant or trader, the man “accustomed to trade,” the proof could be dispensed with.<sup>92</sup> As to whether the contract should mention a definite rate of “interest” or no, was clearly a matter of detail and convenience, which did not involve any principle; and although some writers regarded a fixed rate with suspicion, it does not seem to have met with any serious opposition.

The total result of the movement of thought was this: that any merchant, or indeed any person in a trading centre where there were opportunities of business investment (outside money-lending itself), could with a perfectly clear conscience, and without any fear of molestation, contract to receive periodical interest from a person to whom he lent money; *provided only* that he first lent it to him gratuitously, for a period which might be made very short, so that technically the payment would not be reward for the use, but compensation for the non-return of the money.

Could not this gratuitous period, the addition of which soon became little more than a formality, be dispensed with? Could not “interest” be contracted for from the beginning of the loan? This would seem to be justified by the essential meaning of the theory itself; for a lender might—and, where there were opportunities for investment, would—suffer loss by lending money gratuitously to another from the very beginning of the loan. The question as to the attitude of the canonists is still not altogether free from obscurity. Some modern writers on the history of the

doctrine of usury regard the *titulus morae*, the claim based on delay in repayment, as merely a particular example or species of the *titulus damni emergentis*.<sup>93</sup> It is further maintained by Neumann, who has given especial attention to such mediæval precedents as may be discovered in German history, that contracts for the payment of interest from the first day of the loan were to be found as early as 1353, and soon became common,<sup>94</sup> and he holds that such contracts were allowed by the canonists.<sup>95</sup> But it may be remarked that almost all the examples given by him are later than the middle of the sixteenth century, a period when the canonist doctrine had undergone considerable modification; and it seems probable that most of the earlier contracts were really technically compensations for delay only. In those very exceptional cases where they were not, it is very doubtful whether they were not simply *violations* of the law of usury. For the truth as to the canonist doctrine itself was probably as follows. The great canonists of the later sixteenth and earlier seventeenth century, especially Navarrus (d. 1586) and Scaccia (whose book appeared in 1618), did indeed lay down that delay could be dispensed with,<sup>96</sup> and they sought to strengthen their position by references to isolated expressions of the older schoolmen. But that was in reality a new position. The settled doctrine of the later Middle Ages, as formulated, for instance, by Paul de Castro, made delay the indispensable basis of interest.<sup>97</sup>

Looked at from our modern point of view, this stubborn clinging to a useless condition is apt to seem childish, if not positively hurtful, as "fostering habits of insincere thought."<sup>98</sup> But we must remember that the theory of compensation for delay had originally grown up out of an honest attempt to force debtors to prompt repayment. Every important doctrine, from the very constitution of

society and the human mind, acquires a certain momentum which prolongs its influence after it has ceased to be altogether suited to the circumstances; and though this would have been no reason why a reforming teacher of those times should not have severely criticized the theory, it is a reason why we, now that it can no longer do any harm, should not be impatient at the thought of it. And there are two other considerations to be weighed. The one is that so far as the condition did put any obstacle in the way of those who wished to contract loans, it did so only for those whose loans were not for business purposes (or which were, as it is commonly though not quite correctly phrased, for *unproductive* purposes). Those who wished to borrow capital to put into trade could easily, in the fifteenth century, promise the lender interest from the very first if he were ready to share in the risk; a risk for which he could, of course, indemnify himself by charging a higher rate. This was by means of the canonist doctrine of partnership, to be explained later. And the second consideration is that, by the expedient of maintaining this condition, the canonists did, at any rate, save intact their doctrine of usury. Whether it was worth while doing so is another question, to which we must return later.

It may, however, fairly be asked why, if the canonist doctrine completely recognized the theory of "interest," the money-lenders who appealed to that theory should have been so commonly regarded as merely evading the usury prohibition. Two reasons suggest themselves. In the earlier centuries the phrases "*damna et interesse*" were probably in many cases used when the lender knew that he would not suffer any direct or indirect loss by the non-return of the loan at the appointed time (being secured by pledges or sureties against the loss of the principal), or where the loss

would be much less than the interest stipulated for. Trade was so little developed and uncertain, that a man could by no means always and at once find a good investment (except in usury). And the moralist,—as is suggested by Matthew Paris's account of the tricks of the Caorsines,<sup>99</sup>—might easily point out that the creditor showed his uneasy conscience by the care he took to make the debtor promise never to bring the matter before any court. For the essence of the canonist doctrine was that the *damnum* and the *lucrum* should be genuinely probable under the circumstances. In the later centuries, the feeling of suspicion is probably to be explained by the ease with which the doctrine could be employed by the unscrupulous as a cover for harsh and iniquitous treatment of the poor who were driven to borrow by temporary misfortune; for “usury,” in short, in the modern sense of the word. And having regard to the recent experience of Germany and Austria, as to the evils wrought by usury among the peasants, the real weakness of the canonist doctrine as to interest might rather be found in its inability to prevent its own misuse than in any other defect.

✓ § 66. The other method of obtaining a return from the investment of capital which has been mentioned—the purchase of rent-charges—would not appear to have been as generally practised in England as in Germany, though there are evident traces of it in English towns. But it contributed important elements to the general development of canonist doctrine, and thus affected even those countries where it was not itself very prevalent.

The practice of purchasing rents would seem to have sprung spontaneously from the conditions of the time, to meet certain needs that made themselves felt. It is now generally conceded that it was as far as possible removed

from being a mere device to escape the usury law.<sup>100</sup> Owners of land who were in the receipt of a terminal fixed rent, a *census* or *firma* from a tenant, came very naturally to think of this as a right which, like every other right, could be sold. The only difficulty was the legal one presented by the laws of tenure, which made it difficult for the tenant to pay the rent to a third person while the lord still retained his ownership of the land. This difficulty could be readily met,—and, according to Neumann, was met,—by some such expedient as the following: the landlord sold his property, including the right to receive the rent, to the third person, in return for a sum of money, and then immediately received it back burdened with the obligation himself to pay in future that particular rent-charge.<sup>101</sup> Here what was actually sold was a rent-charge already in existence, and laid upon certain particular acres in the lord's estate. From this it was an easy transition to the sale of a rent-charge which had not existed before, but which was first created by the contract; and this practice speedily became very general. In this case the charge was not the condition on which certain particular acres were held; it was now a burden on the proceeds of the whole estate.<sup>102</sup> The advantage of the plan was that it enabled owners of lands to borrow for all purposes, among others for the improvement of their estates; while, on the other hand, it provided a safe field of investment for individuals and corporations, such as monastic houses, who desired a steady income without the trouble of managing additional property.<sup>103</sup> Indeed, in the earlier centuries before the alienation of servile tenements became common,—and in Germany it never became so common as in England,—it would often be possible to buy a rent-charge when it would not be possible to buy land itself.

So prevalent a custom was the creation of rent-charges, that the burden often became excessive. It then tended to discourage agriculture; and, owing to the uncertainty as to priority of right among the owners of several charges on one estate,<sup>104</sup> the practice must have led to frequent litigation. Accordingly many attempts were made by legislation and civic ordinances to put some restraint on the creation of new charges.<sup>105</sup> But these restrictions were easily eluded: a policy much more likely to effect the result aimed at was to facilitate the redemption of the charge; and this we find attempted as early as the thirteenth century.<sup>106</sup> In some places, *e.g.* in Lübeck, in 1240, it was enacted that all future charges should be redeemable at the sum originally paid for them; in others a rate was fixed at which all charges could be redeemed—varying from twenty years' purchase in a prosperous city like Basel in 1441,<sup>107</sup> to twelve years' purchase in the almost purely agricultural Prussia in 1438, and ten years' purchase in the same country a few years earlier.<sup>108</sup> Since, with temporary fluctuations, the price of redemption would soon become, as a rule, the same as the price of purchase for a charge of the same amount, the legislation just quoted was tantamount to fixing the rate of remuneration that could be expected from an investment of capital in this manner, at 5%, 8½%, and 10% respectively. But long before the fifteenth century such enactments had probably ceased to be necessary except for ancient charges; since we are assured in a declaration of Martin V., in 1420, that for a hundred years, and, indeed, "from a time whereof the memory of man runneth not to the contrary," it had been the general rule in Germany to authorize the seller of a charge in the deed of sale to redeem it at a fixed rate.<sup>109</sup> Under such circumstances a current rate of return upon investments in rent-charges speedily grew up in each town or

district; and this was taken as the basis for calculation when legislation, as of the kind just mentioned in the case of Basel and Prussia, was deemed desirable. In the table prepared by Neumann,<sup>110</sup> covering the period 1215-1620, it will be seen that the rate was distinctly lower in the great cities than in the principalities, and in the south-west than in the north and east of Germany; that, on the whole, it tended to fall; and that in the cities and the south-west it early fell to 5%, and remained thenceforth fairly steady at that point. It would seem probable that it was from the practice of rent-charges that the idea of percentages was introduced into the practice of "interest."<sup>111</sup>

Now, what was the attitude of the Church and of the canonist doctrine towards this whole movement? Neumann has gone so far as to suppose that the purchase of rent-charges was an exception to the canonist prohibition of usury, which was permitted by the secular law in Germany, and which witnessed to the original absence of any such prohibition in the national customs while uncontaminated by foreign admixture.<sup>112</sup> But there is no evidence for this contention. On the contrary, the purchase of rent-charges, though more common in Germany than elsewhere, was not at all peculiar to Germany. It was, moreover, a method of investment expressly allowed by the canonist doctrine under certain conditions, and the theoretic discussion of it is of precisely the same character with non-German as with German writers.<sup>113</sup>

At the time the practice itself grew up, it would seem to have given no serious difficulty to the theologians or canonists. The discussion as to the differences from the point of view of the canonist theory between what was called a *census reservativus*, i.e. a rent established when land was actually handed over to a tenant or other recipient,



and a *census constitutivus*, i.e. a rent-charge created upon property remaining in the possession of the person who contracted to pay it, would seem to belong to the end of the sixteenth century, when rent-charges had come to differ but little from interest in the modern sense of the term, and the whole subject was undergoing a minuteness of analysis unknown before.<sup>114</sup> One of the first writers to deal at any length with the subject was Langenstein, towards the end of the fourteenth century. It does not seem to have occurred to him that the purchase of rent-charges could be regarded as necessarily usurious, and therefore sinful for all persons. Their purchase was justifiable, according to him, when the object was to secure a provision for old age—a concession which would cover a large number of cases, or when it was to provide a secure income for persons engaged in the service of Church or State. It became sinful only when it enabled nobles to live in luxurious idleness, or plebeians to desert honest toil; for then it violated the divine command, “In the sweat of thy brow shalt thou eat bread.” He thought there was a danger lest estates should become overburdened with charges, and therefore advised the secular princes to take measures to limit them.<sup>115</sup> We have seen that the various governments did move in this direction, as well by the enactments already mentioned, as by the rule which we frequently come across, that no fresh charge should be constituted until the old ones had been redeemed.<sup>116</sup> Langenstein’s attitude is clearly that of the moralist and statesman: the system of rent-charges might easily become the occasion of sin to the individual, and an economic harm to the community, but it was not in itself sinful, as usury would have been.

A distinct judgment from the Papal See was called forth in 1425. A large part of the revenues of ecclesiastical

bodies consisted of rent-charges; and a number of persons in the diocese of Breslau,—which was at this time a dependency of the kingdom of Bohemia, and therefore probably affected by the anti-clerical movement of the Hussites,—refused to pay to the clergy the rents with which their lands were charged, on the ground that they were usurious. The question having thus been raised, the bishop appealed to Martin V. for an opinion. His decision was that the rent-charges were not sinful, so long as they fulfilled certain conditions, especially these,—that they were attached to *bona stabilia* (land and other fixed property), that they were redeemable by the person charged, and that they were not more than 7 or 10% on the purchase-money.<sup>117</sup> Much the same answer was given by Calixtus III., in 1455, to the Bishop of Merseburg, who found himself in a like perplexity; and these two decisions, being placed in the collection known as Extravagants, became the basis of the subsequent canon law.<sup>118</sup>

The conditions under which the canonist doctrine of the later fifteenth century permitted rents to be purchased were liberal enough. The person burdened must always have the right of redemption; the receiver, on the other hand, must not be able to demand the purchase-money back against the will of the payer. The charge must be attached to some definite and permanent property, of such a nature as to be a source of permanent income (*res frugifera*). Beginning with land, the basis was gradually widened to include houses and shops from which a revenue could be obtained by letting, as well as all permanent revenue rights, *e.g.* rights of toll.<sup>119</sup> Accordingly the canonist theory put no obstacle in the way either of a landed proprietor, or of an artisan with a shop or stall and the trade rights that usually went with it, who wished to borrow capital to put into his

land or his business by means of the sale of a redeemable rent-charge. The only objections to this method which the would-be investor might feel were that the courts would sanction only the usual average rate, and that he could not demand the purchase-money back. But, as in the great majority of cases,—those cases in which the landowner or the artisan's credit was good,—the average rate was all the investor would be at all likely to get, and as he could readily regain his capital by selling his right to some other person, the limitations of the canonist doctrine would only bear hardly on those who wished to lend to persons whose credit was bad. This would usually be for consumptive expenditure; and a restriction in that direction had much to be said for it.

§ 67. We have not, however, yet reached the end of our list of methods in which capital could find a profit-earning investment in the Middle Ages without conflicting with canon law. One remains to be described, which was of especial importance for precisely that field of economic activity wherein the need of facilities for the utilization of capital was most keenly felt, viz. foreign trade; and this was the method of partnership, or *societas*.

Like the custom of creating rent-charges, so also the mediæval practice and theory of partnership have been explained as primarily due to the effort to escape from the operation of the usury law. But recent research has shown that this is a gross exaggeration. The practice and the legal doctrine grew up independently out of the needs and circumstances of the earlier Middle Ages, and had reached a complete shape before any serious effort was made to enforce the prohibition of usury in ordinary business life. The effort to enforce that prohibition did indeed, as we shall see, prevent certain developments of the practice of partnership

which might otherwise have taken place; but it did not create the practice, nor did it contribute in any positive manner towards its modification. We have not, then, to trace a series of adroit subterfuges, introduced or apologized for by the canonists in order to meet the necessities of commerce; we have rather to observe the way in which the canonist doctrine, as it gradually formed itself, treated a practice which was already established.<sup>120</sup>

A word or two as to the early history of partnership may not be out of place. Modern law, and, therefore, modern practice, have been affected in various ways by the Roman law of *societas*; but in the main the institution of partnership has had an altogether independent and different origin, and no direct continuity with Roman practice.<sup>121</sup> Its origin has been threefold, corresponding to three distinct varieties of the relation, although these have in later centuries mutually influenced one another. The oldest form of partnership in the Middle Ages was the *commenda*, which was originally a partnership only for a particular voyage or enterprise, and which, while it has affected all subsequent forms of partnership, has left its special trace in the partnership *en commandite*, which is so general on the Continent. The ordinary modern arrangement of the partnership of unlimited liability was considerably later in its growth. It finds its origin in the common-life of members of the same family, and seems to have been used in industry before it was applied to trade purposes. Finally, the joint stock company is still later in its appearance, and finds its origin in the early history of public debts.<sup>122</sup> It is the *commenda* which here particularly claims our attention.

As early as the later part of the tenth century, if not before,<sup>123</sup> we find it was the practice in the commercial cities

of Italy for merchants who wished to engage in foreign trade, but who did not themselves care to accompany their goods across the sea, to entrust them to agents or representatives. The home-staying merchant was known as the *commendator*, the *socius stans*; the travelling associate as *tractator*, *portator*, *commendatarius*; and the arrangement itself as a *commenda*. An arrangement of this sort might be effected in many different ways. The owner of the ship might be its captain, and himself act as *tractator*; or the captain might be distinct from the owner of the ship, but still make this agreement with the owner of certain goods; or a great merchant might send one of his permanent servants. But the expediency of employing in this capacity men specially acquainted with the foreign market, and the preference which those who had successfully carried through such undertakings would naturally meet with, led to the growth of a special body of *tractatores*,—distinct both from the owners or captains of vessels and from the merchant's employés at home,—who made it their regular business to undertake such enterprises.<sup>124</sup>

The *commendatarius* might be rewarded with a fixed remuneration; but as this would not enlist his own interest in the enterprise to the same extent as a share in the gain, it came to be the general practice to promise him one-fourth of the profit. This was the prevalent form of *commenda* in the Genoese trade of the twelfth century, and was clearly the result of increased competition in the foreign market. So long as sale at a good price was certain, a wage-relation between the two parties might suffice; but not when the exercise of peculiar skill and judgment was needed on the part of the travelling representative. The *tractator*, it must be remembered, did not himself contribute to the capital invested in the enterprise, and his ordinary expenses were met by the

home-staying merchant. It was usual for him to sign an acknowledgment, and this was drawn up in almost identical terms in all the ports of the Mediterranean visited by Italian merchants: "I, A. B., have received," or "acknowledge that I have received, from C. D." such and such a sum of money (sometimes with the addition "in cloth" or the like), "in commendationem," or "in commenda" (more rarely "in societatem"); "with these I will go," or "these I am bound to take" to Messina, or Alexandria, or elsewhere, "to trade therewith" ("laboratum"), or "to make gain and to trade" ("ad lucrandum et negotiandum"); "and I am to receive one-fourth of the profit."<sup>125</sup>

From this the transition was easy to an arrangement more closely resembling modern forms of partnership.<sup>126</sup> A successful *tractator* would quickly be in a position to invest in the voyage himself; and accordingly we soon find examples of his contributing a portion of the capital. In such cases the division of earnings was determined by the same rule as in the case of the simple *commenda*. Thus, in the typical case where the *tractator* contributed one-third of the capital, he would have one-fourth of the profit as *tractator* together with one-third of the remainder as capitalist, *i.e.* another fourth; so that the division would be half and half.<sup>127</sup> An arrangement of this kind was more commonly known as *societas*, or (in Venice) *collegantia*, while the earlier form usually retained the name *commenda*; although the terms in the earlier centuries are frequently used indiscriminately.<sup>128</sup>

But with the introduction of this new element,—the investment of capital by the *tractator* himself,—the economic characteristics of the arrangement began to undergo a substantial change. Now the two parties both shared in the risk and gain, in proportion to their individual contributions

of labour and capital. There was now a common business capital belonging to the two partners, and they received their shares from a common profit; they did not each merely secure a profit on a separate stock of goods. Then, again, as the *tractator* could enter into the same relation with several *socii stantes*, and often did so, he became more and more the real director of the undertaking. He, and not the home-staying partner, was the *entrepreneur*, the "undertaker" in Adam Smith's phrase. In the *societas maris*, as it thus grew up, it was no longer the home capitalist that took the skill and labour of the *tractator* into his service, but the travelling merchant who took the capital of the *socii stantes* into his service.<sup>129</sup> Applied, as has been indicated, originally to trade over the sea, the *commenda* was gradually utilized for internal trade, and finally even for local industry.<sup>130</sup>

The *commenda* is not the direct parent of the modern English business partnership; which would seem, like the "offene Gesellschaft" of Germany, to have grown out of the custom of several members of the same family continuing to live together, and carry on their business in the same shop. The original joint household would seem to be indicated by the very word *company* (com-panis); and the formulæ of partnership long retained such phrases as "men who eat one bread," "men who have one bread and one wine."<sup>131</sup> The practice which had probably grown up first between brothers, would easily be extended to fellow-craftsmen unconnected with one another by blood; and from the manual crafts, it could be readily introduced into commerce. From this joint-life of the members of the company, this habit of dwelling together and working together, arises the distinguishing characteristic of the ordinary modern partnership, *i.e.* the unlimited liability of all its



members.<sup>132</sup> And this form of partnership has in England driven out the other and earlier form growing out of the *commenda*: in which the liability of the contributing partners, who took no part in the management, was limited to the capitals they severally staked in the venture. Indeed, in the general law merchant of mediæval Europe, "the test of *general liability* as a partner was his joining as a proprietor in the *management* of the business."<sup>133</sup> It has been ingeniously supposed that the difference between the later common law of England and the law merchant was due to "the interjection of a feudal notion into the trade relation of partnership." As "land was, in effect," in feudal law, "though not in name, a legal person, and the man a mere incident;" so the contribution of a partner was personified and allowed to drag after it the individual, and impose obligations upon him, even though he did not himself join in the business.<sup>134</sup> Whatever the explanation may be, the older practice disappeared from English law; and,—now that it has been reintroduced by statute as "limited liability," or "special partnership,"—the "normal," or original, "type," as a modern jurist complains, "is not recognized by the profession, but is mistaken for a mongrel cross between a loan and a partnership."<sup>135</sup>

The difficulty which the legal profession has in recognizing this reintroduced form as a true partnership is precisely parallel to the difficulty which the modern reader has in recognizing it when he meets it in mediæval documents. He finds that, in spite of the prevailing ideas as to usury, persons "committed" money "to a merchant that he might make profit (*lucrum*) therefrom,"—a profit of which they bargain to receive a share. This operation seems to him to be evidently a loan, and nothing more; and the reference by the canonists to the theory of partnership, *societas*, as justi-

fying it, seems to him evident hypocrisy. In reality it was a form of partnership which has since died out in England; and it differed in important respects from a mere lending of money.

Whenever this form of partnership may have been abandoned in England, it was quite common in the Middle Ages — at least down to the early part of the fifteenth century. In Northern Europe the rule for the division of the profit between the two parties was that half should go to each. The contract, or memorandum of agreement, usually ran to the effect that A. B. had entrusted so much to C. D., wherewith C. D. should trade, and return half the gain with the principal to A. B.; or, in more general terms, that A. B. had entrusted so much to C. D., to divide equally gains and chances (*ad dimidiam acquisitionem et fortunam*).<sup>196</sup> Possibly the greater distances usually travelled in the trade of Northern Europe, the longer time the journeying partner needed to be absent, and the emergencies he had to encounter, caused his share of the profit to be so much greater than in Italy; and it may have been the influence of the Hanse merchants which led to the adoption of the same rule in England. Thus we find a wealthy citizen of London, who was leaving by will one hundred pounds to a youth under age, directing that “the said sum, in the mean while, should be entrusted to a merchant to trade withal . . . the said merchant taking half the profits for his trouble.”<sup>197</sup> This reminds us that in the statutes of the Italian cities an investment in a *societas maris* (or the creation of a *commenda*, as the case might be) was regarded as an especially suitable way of employing the money of wards, as well as any other sums for which a temporary use was desired.<sup>198</sup> And here we have the explanation of certain English facts that have been altogether misinterpreted by some modern writers.

We find several cases in the fourteenth century in which auditors, appointed by the lord mayor of London, pass the accounts of guardians who state that they have employed in their business for so many years the capital of their wards; that they have reckoned profit upon it at 4*s.* in the pound yearly, "according to the custom of the city;" and that they now claim out of this "one half of such increase, namely 2*s.* in the pound yearly, for their trouble as to the same."<sup>139</sup> To a modern reader this certainly looks like a case of what we should call a loan on interest. But during this same period the mayor was from time to time issuing ordinances against usury. The interpretation of these facts given by Cliffe Leslie<sup>140</sup> is that "two opposite practices in relation to the payment of interest," in the modern sense of the term, "coexisted in the fourteenth century: one descending from social infancy, the other developed in the progress of intercourse between mercantile people—among whom the clergy were in no great esteem—by experience of the needs of trade." The civic ordinances against usury were, it is suggested, mere concessions to an antiquated conscience, or passed to pacify the clergy; "they were rarely enforced, and seem to have been chiefly aimed against foreigners." This theory of the duplicity of civic authorities would be hard enough to accept, even if there could be no positive disproof. But there is; for on the one hand, the efforts of the town authorities to suppress what they deemed "usury" were so continuous that they can hardly be explained away; and we actually find the Commons petitioning in 1376 that powers similar to these enjoyed by London should be given to the authorities of all other cities and boroughs;<sup>141</sup> and on the other hand, that particular method of investment was regarded by the law merchant of Europe not as a loan, but as a form of partnership, and was distinctly

assented to, and even recommended throughout the Middle Ages, by the highest ecclesiastical authorities.

For as early as 1206, Innocent III., in a letter to the Archbishop of Genoa on the question of dowry (a subject which came within the view of the ecclesiastical courts), had expressly advised that in certain cases a dowry "should be committed to some merchant," so that an income might be derived "by means of honest gain."<sup>142</sup> So completely as a matter of course was the practice regarded that the earlier schoolmen barely mention it.<sup>142a</sup> Aquinas, however, made the passing remark that gain is allowed in partnership because the investor remains the *owner* of his capital—a phrase which is equivalent with him to the other assertion, which he proceeds to give as its proof, that the investor shares in the *risk*.<sup>143</sup> Henceforward this is the one principle that recurs in all the canonists.<sup>144</sup> Only where the investor himself shares in the risk is the contract a true *societas*; and only then is it justifiable. The canonist doctrine had, of course, no objection to bring against the ordinary business partnership, where each partner shared in the management; for here the gain might be regarded as the result of labour on the part of each, conjoined with capital, and so making it fruitful.<sup>145</sup> But it was equally indifferent towards partnership, whether for long or short periods, where one partner contributed all the capital, and the other contributed all the labour. So long as the partner who contributed only capital shared in the risk, the canonist doctrine regarded him as having a moral right to share in the profit; while the same fact brought with it the juristic conclusion that he retained his ownership in the money invested, so that the transaction seemed clearly distinct from a *mutuum* or loan, which was always defined as involving a transference of ownership.<sup>146</sup>

As to how the shares of the various parties in a partnership could be justly determined, there was considerable divergence of opinion among the canonists; and it was found to be extremely difficult to apply to concrete circumstances any abstract principle, such as that labour and capital should be equally remunerated.<sup>147</sup> Accordingly the canonists were disposed to acquiesce in a wide freedom of contract. They were not disposed to criticize unfavourably any arrangement which the parties to an agreement cared to make, so long as the share of each continued to be contingent on uncertain gains. But until the beginning of the sixteenth century it was the constant teaching of the canonists that *to bargain for a fixed reward, or dividend, upon the capital invested, whatever the fortunes of business might be, made the contract usurious*.<sup>148</sup> An arrangement of this kind which had early been introduced at Pisa under the term *dare ad proficuum maris* disappeared when the Church began to make a serious attempt to enforce the usury prohibition.<sup>149</sup> Even the promise on the part of the working partner to return the invested capital intact under all circumstances brought the contract,—in the opinion of almost all canonists and civilians,—under the same condemnation.<sup>150</sup>

Endemann's contention that the *commenda* was "brought under" the theory of *societas*, although it was essentially a loan,<sup>151</sup> loses all its apparent force when we realize that the *commenda* had long existed, and under the very name *societas*, before a serious effort was made to enforce the usury prohibition; and that it is in fact one of the historical sources of the later law and practice of partnership. With this falls the further contention that the whole theory of *risk* as a necessary element in partnership was merely devised in order to prevent cases of investment from falling under the designation *mutuum* or loan. For the participation

in risk has always been, and still remains a necessary constituent in the legal definition of partnership;<sup>152</sup> and it was attached to those forms of partnership in the Middle Ages which Endemann regards as essentially loans simply because they were, historically, genuine forms of partnership.

But there is this still more vital objection to Endemann's whole view of the matter. He assumes that the natural employment for such investment-seeking capital as existed was in the direction of loans on interest. But even to-day the amount of capital actually invested in that way (except in public debts) is comparatively small. And in the Middle Ages, for such capital as could not be employed in trade or industry by its own owner the method of investment by which loss and gain were alike shared was a very suitable and natural one. To the capital-seeking merchant it presented the advantage that if his enterprise were unsuccessful he would not be still further crippled by being obliged to restore the capital; to the investment-seeking capitalist it presented the attraction of a large but somewhat uncertain profit as compared with a small and certain one.<sup>153</sup> It appealed, in fact, to much the same sort of men as to-day prefer investments in South America to the English Consols.

§ 68. The essential nature of such loan-like forms of partnership is rendered still clearer by an examination of the *loan on bottomry* (in German, *bodmerei*), which rivalled the *commenda* in its early popularity as a form of investment in the European ports. "Bottomry" is essentially "a mortgage of a ship"<sup>154</sup>—literally of the ship's keel or bottom, the part being used for the whole; and a "loan on bottomry" is a loan contracted by the owner (or, under certain conditions, the master) of a ship, on the security of the ship itself, or of the goods on board, and to be repaid with a certain stipulated

interest on the termination of an intended voyage, described in the bond or bill. If the ship is lost, the obligation both as to principal and interest ceases. In recent centuries the loan on bottomry has been the usual means by which masters of vessels, driven into distant ports by stress of weather or other hazards, have obtained funds to enable them to refit, to pay their men, etc.; although the increasing facilities of communication, which make it possible for the master to communicate with the owners from almost any port, and to have funds credited to him by telegraph, is rapidly rendering the practice obsolete. But in the later Middle Ages it was very commonly resorted to by the owners of vessels as a means of raising the capital necessary for an enterprise, or for other purposes.

The practice appears in Italy as early as the beginning of the thirteenth century; during the course of the century it becomes common in Italy and the ports of Southern France; and in the fourteenth century it appears in Germany.<sup>155</sup> Probably the practice grew up in England about the same time. Its rapid extension is easy to explain: it secured to the shipowner all the advantages of insurance in a form peculiarly suited to the conditions of the time. He received a sum, which we may compare to the policy money, at the time the contract was made, so that there was no danger lest the underwriter should prove insolvent; a danger which, with the much smaller amount of readily applicable capital in existence, would have been far greater then than now. Moreover, the premium or interest had only to be paid if the ship came safely to port. The lender, on the other hand, found an attractive form of investment.<sup>156</sup> Yet the important and interesting fact to be observed is that the mediæval canonists and theologians did not think it necessary to give any attention whatever to the



moral character of such transactions. It seems to have been assumed as a matter of course that they were justifiable; and they gave no concern to the theorists of the canonist doctrine until the later part of the sixteenth century.<sup>157</sup> Where the Church doctrine of usury touched the practice of loans on bottomry would seem to have been on one point only. In the later Roman empire, when loans on interest were recognized by law, an especially high rate of interest had been allowed in the case of loans to shipowners, under the name of *fœnus nauticum*. This practice seem to have survived in some of the trading centres of Italy as late as the twelfth century, when it gave way to the *loan on bottomry*. And this transition from one practice to another may with much probability be ascribed to the enforcement of the usury prohibition. But if so, it was not a mere change of external form in order to escape the rigours of ecclesiastical jurisdiction. The *fœnus nauticum* had two serious defects. In the first place, it did not require that the person who contracted the loan should have a "pecuniary insurable interest" in a particular ship. Accordingly it could be, and it was in ancient Rome, "resorted to as a gambling wager by persons frequently not interested in the ship whose loss or safety was betted upon;"<sup>158</sup> and for this reason the Church was as much justified in frowning upon it as the modern state is in checking other forms of gambling. And then, in the second place, though the rate was high on account of the risk of insolvency, the borrower remained answerable for the payment of the capital and interest in every case.<sup>158a</sup> This obviously would lead to much unnecessary suffering; and if the Church could secure the substitution for it of another arrangement,—which might indeed raise the rate of interest, but was free from this other and graver drawback,—it was clearly justified in so doing.

§ 69. A monied man in the middle of the fifteenth century had, then, a wide freedom of choice as to the manner in which he might, with the approval of the canonist writers, invest any money he did not wish to employ himself. Now that any one with a command of capital could fairly expect to make profit in trade, if he cared to take the trouble to manage the investment himself, a man might fairly, it was thought, contract to receive interest (or compensation for loss) from a person to whom he lent his money, provided only he allowed him first a short period of gratuitous use. But in England, at any rate, this method of investment would not appear to have been very common until the sixteenth century, when the gradual introduction of the term *interest* into common use would seem to indicate that it was frequently resorted to. The principle of the *pœna conventionalis*, however, on which the doctrine of interest largely rested, had been distinctly recognized as lawful by a statute of 1485, which had exempted from the penalties imposed on usury the taking of "lawful penalties for non-payment of the same money lent."<sup>159</sup>

The monied man, again, would probably have no great difficulty in purchasing a rent-charge on the estate or house of some squire or merchant. The possible disadvantage of this form of investment was that the capital sum could not be demanded back again from the seller of the rent-charge; but if this seller's credit remained good, the charge could usually be sold without much difficulty; and it was obviously desirable that the investor should not burden with such charges men whose credit was not likely to remain sound.

But of all the ways of investment open to a monied man in a trading centre like London, the most attractive and the most usual was that of partnership in its various forms. The essential element in partnership was that the investor

shared in the risk of the venture or business; and the canonists were ready to invert the definition, and say, "Where risk, there partnership." Accordingly, the popular definition of usury among business men came to be "gain *without risk*." Thus, in the *Treatise concerning the Staple*, ascribed to Clement Armstrong, and written probably about 1519, certain merchants are reported as declaring a particular practice of theirs non-usurious. "They say, 'It is not usury; by reason,' they say, 'they put their money in adventure.'" <sup>160</sup> And more than a century before, in 1390, the same definition was given by the mayor and aldermen of London. An earlier civic ordinance (of 1363) against "usury, or unlawful chevisance," had, they declared, been "obscure," since "it is not comprised or declared therein what is usury, or unlawful chevisance." Accordingly, after "good advice and wise deliberation thereon," they now defined the offence as follows: "If any person shall lend, or put into the hands of any person, gold or silver, to receive gain thereby or a promise *for certain without risk*." <sup>161</sup>

Those who desired to receive gain for the loan of money without incurring any risk, seldom made a direct and open contract to this effect under the form of a loan. This, at any rate, was the case in England after the expulsion of the Jews. Lenders secured themselves against the loss of their principal by insisting on the furnishing of a sufficient pledge or pawn, or, when it was for more than a trifling amount, of one or even two sureties. <sup>162</sup> This was so universally the case that the usual English term for contracting a loan, to *borrow*, has been derived from the *pledge* or *surety* (*borh*, *borrow*), which originally always accompanied it. <sup>163</sup> They then proceeded to cloak the gain under some more or less transparent device. One of the most common was that of "sale and resale." The lender went through the form of

selling goods on credit to the borrower at an exorbitant rate, and then at once, either directly or through a partner, bought them back again at a lesser sum; the difference between the price actually paid over on this imaginary repurchase and the price to be paid at some future time for the nominal original purchase being the gain from the transaction.<sup>164</sup> Another plan was to force the borrower to sign a quittance for more than the sum actually received.<sup>165</sup> And other opportunities for evasion of the law were offered by the new business of bill-broking, which grew up in England towards the end of the fourteenth century. The issuing of bills of exchange based on genuine business-sales of goods was recognized as a legitimate source of gain by the canonists.<sup>166</sup> But it was easy, under the form of a bill, to make what was substantially a loan upon interest. The "false and abominable contract of money," which, "the more subtly to deceive the people, they call exchange or chevisance," was attacked by an ordinance of the mayor and aldermen of London in 1364.<sup>167</sup> And in the next year the royal government was moved by the representations of "the magnates and the commons" of the realm to issue a special letter on the subject, under the privy seal, to the mayor and sheriffs of London. They were directed to summon before themselves all the merchants they deemed likely to be tainted by this crime, and "charge them . . . that they . . . make not any exchange with any person other than a lawful and known merchant, and in behalf of any person other than one known as a lawful merchant, and that by way of lawful merchandise, and *as to things merchandisable*, exported from our realm or imported into the same."<sup>168</sup> Fictitious bills of exchange, which did not represent actual goods, were known later as *cambia sicca*,<sup>169</sup> and seem to have resembled, in that respect, at least, what are now known as "accommodation bills" or

“kites.”<sup>170</sup> The term *chevissance*, which is used in the sixteenth century for every sort of subterfuge by which the usury law was evaded, probably attached itself peculiarly to such fictitious bills.<sup>171</sup>

§ 70. We are now, perhaps, in a position to look at the canonist doctrine of usury as a whole, and to consider its relation to the economic development of the Middle Ages. The view most commonly accepted by modern Protestant writers is, that during the later centuries of the Middle Ages,—whatever it may conceivably have been in earlier centuries,<sup>172</sup>—the effort to enforce the prohibition of usury was a hopeless attempt to struggle with growing economic forces. With some this mistake is laid especially to the charge of the Church or of ecclesiastics, and, if it is conceded that the policy may have been due originally to genuine sympathy with the oppressed, it is implied that its continuance for centuries was due to a love of power, or, at best, to sheer stupidity. It has, indeed, been pointed out in reply that the dislike of usury was shared by public opinion, and especially by the public opinion of the business classes themselves;<sup>173</sup> but the answer to this has been either that the people were influenced by their religious teachers, or, if they were not, that the feeling on their part was but the outcome of ignorance and want of judgment.

This gigantic mistake of the Middle Ages is more precisely defined as the maintenance of “the doctrine of the unproductivity of capital,” or of “the axiom of the infertility of capital.”<sup>174</sup> Assertions and phrases such as these recur continually in the most complete and learned modern treatise on the canonist doctrine, that of Endemann; a treatise which has done much to confirm the prejudice which the men of to-day are likely to feel against a rule which has now become unintelligible. Neumann, also, a

writer who has illustrated with many valuable facts the history of the prohibition in Germany, much as he differs from Endemann on some points, agrees with his main proposition. According to the doctrine of the Church, says Neumann, it was sinful "to recompense the use of capital belonging to another."<sup>175</sup>

Other writers who do not formulate the charge in the same terms, nevertheless imply it. For instance, it is said that "as industry and commerce grew, the increasing necessity for credit must have made the hampering effects of the prohibition increasingly vexatious;"<sup>176</sup> which means that industry and commerce were hampered in the employment of capital; or rather that money which would otherwise have become capital was prevented from doing so. Or, again, it is remarked that "the European world, with settled order and increasing commerce, chafed under this enforced unselfishness."<sup>177</sup> Here, again, the implication is that the world chafed, not because it could not get wealth for personal consumption, but because it could not easily employ it in trade. In conformity with this conception, all those methods which the canonists justified of securing a profitable investment for money, are described as "evasions," which "the Church was forced to tolerate."<sup>178</sup> Endemann is never happier than when he is describing the canonists as exercising their ingenuity to defend practices which had grown up in spite of their doctrine, and to escape from the obvious consequences of their own principles. In every branch of business, it was "the same old comedy."<sup>179</sup>

Against the whole of this position, a forcible argument has been urged by the distinguished Catholic theologian, Funk, which deserves more attention than it has yet obtained.<sup>180</sup> He grants, of course, that canonist teaching did deny the productivity or fertility of money, *i.e.* of *coin*; it is

obvious that coins are not productive in the sense in which a field or a flock of cattle are. But, he argues, that is very different from denying the productivity of capital. The productivity of capital they did not deny; in all the forms in which it presented itself they expressly recognized it, and allowed its results. For this contention he finds a scientific basis in the doctrine which Lassalle has popularized in the phrase, "Capital is a historical category."<sup>181</sup>

Before inquiring how far that doctrine does indeed cast a more favourable light on the prohibition of usury, it will be expedient to pause for a while and pay some preliminary attention to the literary history of the term "capital." Only by so doing can we guard against the ambiguities and misconceptions which are sure to cling to the discussion, if we begin by assuming some conception of "capital" as self-evident.

The early history of the substantive "capital" is very obscure, especially in English, where its use is complicated with that of the adjective in the phrase "capital stock;" so that certain modern writers have somewhat hastily supposed that it has been merely derived from the elliptical use of the adjective instead of the whole phrase.<sup>182</sup> This, however, would seem difficult to reconcile, as a complete explanation, with the continental use of the term in the seventeenth and eighteenth centuries in countries where the adjective was not generally used.<sup>183</sup> The word was not, indeed, a very common one with writers on trade or industry until it was taken up by the economic writers of the eighteenth century, known as the Physiocrats, and utilized for the statement of their theory. When it was used by the Mercantilists it would seem to have been generally in the sense of a sum of money placed on loan, or which the owner had at his disposal for the purpose of lending.<sup>184</sup> This sense was apparently borrowed directly from popular usage. Thus the



*Dictionary of the French Academy* gives as the first meaning of "capital," "le principal d'une dette, d'une rente;" and Grimm defines "capitalist," in German, as "a man who lends out money on usury." And so Sir James Stuart, as late as 1767, uses "capital" only where he is speaking of the principal of a debt in contradistinction to the interest.<sup>185</sup>

We may conjecture that the growth of such forms of secure investments as the national debt, and the occasion they would give to all possessors of money (or forms of wealth readily changed into money) to compare in their own minds the comparative gain of investing it in a government loan or in business, whether that business were conducted by themselves or by others, would tend to emphasize the connection, already obvious, between the various ways of realizing gain from the possession of disposable wealth. Accordingly *capital* would come to be used as we now use it in speaking of a merchant's or manufacturer's capital. Thus Malachy Postlethwayt, the author of the very widely read *Dictionary of Trade and Commerce*, writing in another work as early as 1757, uses "trading-stock," and "capital," as synonymous.<sup>186</sup> But it is noteworthy that the term is still understood to imply wealth *invested in such a way as to bring gain*, and this gain is conceived of as standing in the same relation to the capital as interest to principal. The wealth thus invested was of course conceived of primarily under the form of money. All this is clearly brought out in the definition of capital in the great German dictionary of Adelung, in 1774: "A sum of money so far as it is appointed (or intended, *bestimmt*) to bring gain (*Gewinn*) in contradistinction to this gain or to the interest."<sup>186a</sup>

So far the language of economic writers had followed the language of everyday life. But with the appearance of the physiocrat theory their phraseology began to move away

from current usage. Turgot, writing in 1766, was anxious to correct the exaggerated importance attached to money, and therefore pointed out that whether the "capital" consisted in coins that could be exchanged for articles of value or in articles of value that could be exchanged for coins, was "absolutely indifferent." Whoever saves articles of value (*des valeurs*) forms capital. "these accumulated values are what are called capital."<sup>187</sup> As Knies has justly remarked, what Turgot ought to have said was that this "should be," or "might be," called capital; not that it *was* so called. For the inversion of the proposition, "capital is composed of accumulated values," so as to make it run, "Accumulated values (*i.e.* all accumulated values) are capital," so broadened the meaning of the term that it no longer corresponded to the ideas of ordinary life, nor has the term, as generally used by economists, so corresponded ever since. For obviously it is one thing to tell the business world that what they call capital is not only, or even chiefly, money, but is really composed of a number of valuable commodities, and another thing to say that all valuable commodities accumulated from the past are to be called capital.

Adam Smith, much as he was influenced by the Physiocrats in general, and by Turgot in particular, showed his usual good sense by keeping in the main very close to mercantile language. "Stock" is still with him the usual word for a merchant's capital.<sup>188</sup> He does, indeed, begin by copying, as it seems at first sight, the Physiocrats in their wide definitions. *Stock*, in its most general sense, he tells us, is an accumulation or store of goods. But then he goes on to divide the stock of an individual into two parts—that used for immediate consumption, and "that part which he expects is to afford him a revenue." This latter part "is called his capital;"<sup>189</sup> and, in so speaking, Adam

Smith was more correct than Turgot, for no doubt that wealth from which a man expects to derive a revenue, and that alone, was, and is, *called* his capital. Unfortunately, however, he proceeds next to speak of "the general stock of society." That portion of it which is not needed for the immediate consumption of society he calls *its* capital, and then enumerating the "articles" of which it consists, he speaks first of "all useful machines and instruments of trade which facilitate and abridge labour."<sup>190</sup> Thus a navy's spade would be part of the capital of society; though in ordinary language we should hardly speak of the navy as possessing capital. But it is only when Adam Smith is consciously theorizing on capital or stock that he gives these wide definitions. When he is thinking of other subjects, his language is the ordinary language of his day. Thus, for instance, he speaks of an "original state of things, which precedes both the appropriation of land and *the accumulation of stock*," and therefore *à fortiori*, of capital.<sup>191</sup>

But in the stress which the Physiocrats and Adam Smith had laid on "accumulation," and in Adam Smith's own description of social capital, lay the germs of a conception which was to obscure for economists the distinctive marks of capital as it is known to the business world. "Capital," says Ricardo, "is that part of the wealth of a country which is employed in production, and consists of food, *clothing, tools*, raw material, machinery, etc., necessary to give effect to labour."<sup>192</sup> And, therefore, he has no hesitation in correcting Adam Smith. "As to the accumulation of capital: *Even in that early state* to which Adam Smith refers, *some capital*, though possibly made and accumulated by the hunter himself, *would be necessary* to enable him to kill his game. Without some *weapon*, neither the beaver nor the deer could be destroyed."<sup>193</sup> From this it was a short

step to that account of capital as an eternal economic necessity which became a commonplace with the later Ricardians. There might have conceivably been a time when men had no weapons or tools; but they must always have had food if they were to work—and this, as it must have been “previously accumulated,” was capital; so that “capital is as indispensable a requisite of production as either labour or appropriate natural agents.”<sup>194</sup>

It is at this point that Lassalle's criticism is valuable. It was, apparently, not original with him, but borrowed from Rodbertus;<sup>195</sup> but it was presented by him in a more striking, as well as in a more philosophic, form. Lassalle had not shaken himself quite free, perhaps, from the entanglement of economic theory; but he brought out very clearly that what the world generally understands by the use of the term “capital,” implies the existence of conditions which economists usually leave out of sight. According to most modern economists, following Ricardo, the savage's bow and arrows are capital.<sup>196</sup> But if the savage is ill, and unable to use them himself, he cannot find another who will pay him an interest for their use in the shape of fragments of deer or beaver. He might, if savages were civilized men with modern notions of property and interest; but they are not. He might perhaps sell the bow and arrows; but it is extremely improbable that he could use the price as a permanent source of income. For when we examine more closely Adam Smith's definition of an individual's capital, which is the “capital” of real life, we see that the phrase, “Stock which is expected to afford a revenue,” implies more than appears on the surface. It implies what Lassalle calls a certain “autonomy” of capital;<sup>197</sup> or, to use less misleading language, it means that the conditions of society are such that the command of capital gives a man the power to obtain

an income without any personal labour, save the labour of "finding a safe investment." It implies, in short, opportunities for investment.

But in this sense, and not in the sense of Ricardo and his followers, capital is a historical category. It is not an eternal fact or element in production. It depends on given historical conditions; it came late and gradually into existence on a large scale. Because Lassalle associated with this perfectly sound argument certain teaching as to the injustice of the means by which capital secures its income, and suggested that what had come into existence in time might also go out of it in time, it is unwise to neglect the aid of a great and illuminating conception. The conception is one which brings economics into close touch with other great fields of thought, especially with the philosophy of law.<sup>198</sup> For what is true of "capital" (not as economists have understood it, but as the world uses the term) is equally true of the great jural conceptions of "property," "inheritance," and the like. These are not logical abstractions, but the varying expression in thought of varying usages in social life. There is no abstract right of property, but there have been at various times varying rights of property; and, similarly, there is no eternal stamp upon things which make them capital, but merely varying means attached to the possession of wealth for the acquisition of further wealth.

§ 71. After the conclusion to which we have just come as to the character of "capital," we may perhaps draw out the case in favour of the canonist doctrine of usury in some such form as this. In the later days of the Roman empire, the power of the creditor over the debtor was so often harshly abused<sup>199</sup> that the Fathers, moved by a natural reaction, urged the faithful to abstain from so dangerous a trade, and when they lent at all, out of compassion, to lend asking nothing

in return save the loan itself.<sup>200</sup> But so long as capital needed to be borrowed for the purposes of trade, it would have been unwise to insist that all men should follow their advice. Accordingly, no attempt was made to enforce the rule by ecclesiastical penalties on any save the clergy; it was a counsel of perfection, and it would have remained a counsel of perfection only had not economic conditions changed. This would seem to be shown by the fact that in the Eastern empire no permanent restriction was placed on the loan of money beyond the limitation of rates by Justinian, and that the Eastern Church acquiesced in the license given by the secular law.<sup>201</sup> But, in the West, the barbarian inroads for a time caused an almost entire suspension of commerce; and although in some Italian and Gaulish centres there was never any absolute break in the life of trade, there was a period of some centuries during which it played a very insignificant part in social activity. Agriculture was the all-important occupation,—and agriculture carried on for the supply of the wants of each group of producers themselves, and not for the market. Where money was borrowed it was, in the vast majority of cases, not for what is called productive expenditure, but for consumptive; not to enlarge the area of tillage, or to invest in trade or industry, but to meet some sudden want due to the frequent famines, or to oppressive taxation, or to extravagance. The money that was lent was money for which it would otherwise have been exceedingly difficult to secure an investment. The alternative to lending was allowing it to remain idle. There was, moreover, so little loanable capital that those who had control of it could demand any interest they pleased; they were so few in number that each had practically a monopoly in his own district; and when there were several money-lenders in a neighbourhood, they were

usually united by a tie of race which served as a sufficient "combination" against the Gentile or the native. The result of such a power, in the hands of unscrupulous men, was that the creditors tended to fall completely into their grasp. This was equally true with the knight who pawned his manor that he might go on crusade, the monastery that contracted a loan to build a new chapel and then was prevented by bad seasons from paying the interest, and,—at the other end of the social scale,—the peasant or artisan who borrowed in order to tide over a time of dearth. Modern readers are not, perhaps, inclined to waste much sentiment over the crusading knight or the ambitious convent; but the question of "agricultural credit" is one which even the governments of to-day are obliged to face. It is not so prominent in England owing to the disappearance there of the small peasantry, and the early removal of the Jews by Edward I. But in India the village usurer is constantly a source of trouble to the administration;<sup>202</sup> all over central and south-eastern Europe he is a curse to every district to which he comes;<sup>203</sup> and in Austria and Russia his mischievous energy is one of the main causes of the Anti-Semitic movement. A modern banking authority, by no means in sympathy with mediæval ideas or their modern exponents, has nevertheless declared that in what he calls "an agricultural, semi-barbarous community," "the money-lender does more harm than good."<sup>204</sup> This was precisely the opinion of the Church; and accordingly it endeavoured to suppress money-lending for gain altogether. The very fact that we hardly meet in the Middle Ages with such instances of the oppression of the poor by usurers as were frequent enough in modern Europe during the brief period in which there were no restrictions on the usurer's trade, would seem to prove that, on the whole, the



combined action of Church and State, backed up by popular sympathy, was successful. The mere fact that statutes were passed against usury from time to time, with the usual pessimistic preamble, no more proves that the law was generally broken than the frequent new criminal laws of modern times prove that all men are thieves or murderers.

So long as the conditions remained which have just been described, the canonist doctrine was but "the legal," and, it may be added, the ethical "expression of economic conditions." "It implies," as the German economic historian, Arnold, long ago said, "that money had not yet the characteristics of capital."<sup>205</sup>

But with the growth of trade, and the increase of opportunities for investment, money began to have "the characteristics of capital;" it began to represent a force from the employment of which its owner could expect to obtain a revenue, in ways other than by loans for consumption. Trade found out these ways for itself, first and foremost by the practice of partnership; then by the purchase of rent-charges; and again by the employment of loans bearing interest after a certain period of gratuitous use. This last method was under the ban of the Church so long as it was but the cloak for loans for purposes of consumption furnished by lenders who had no real opportunity to make an equally profitable productive investment; then, when it could be fairly urged that it was but an alternative to another and productive investment, the disapproval was withdrawn. There is no reason whatever for supposing that capital was craving to find employment in the way of ordinary loans, and that it only adopted these methods as subterfuges pointed out by the canonists. Even now considerable sums of capital for business purposes are not usually sought by means of loans.<sup>206</sup> These methods were what trade spon-

taneously found out for itself; the canonists did no more than examine and justify them.

Speaking of the middle of the fifteenth century,—the conditions a century later we shall discuss in a subsequent section,—we may fairly say that these methods satisfied business needs, and that there was no strong demand on the part of those engaged in trade for the repeal of the usury prohibition. It is altogether misleading and unfair, then, to speak of the prohibition as putting obstacles in the way of the employment of capital. So far as wealth was intended to serve as capital, it found ways open for its employment—ways which were adequate for the time, and against which the canonists had not a word to say.<sup>207</sup>

But why, it will be urged, still keep up the old prohibition? It is obvious that as the various justifiable methods for the investment of capital were not devised by the canonists, but simply brought up to the touchstone of their doctrine, and acquitted of sin, the question could hardly, in 1450, have presented itself in such a form. But a justification may be fairly found for the attitude of the Church. By far the greater part of the population of western Europe continued to be engaged in the old unchanging pursuits of agriculture: a declaration that payment could be taken for the loan of money would have meant the delivering them into the hands of the spoiler. The Church, caring for the masses of the people, for the weak and the stupid, might think it well to maintain a prohibition which imposed no restriction on the activity of the traders in the towns, who were well enough able to take care of themselves. The original prohibition had really aimed at preventing the oppression of the weak by the economically strong. The gradual exemption from the prohibition of methods of employing money which did not involve oppression, instead of

obscuring the original principle, may be said to have brought it out more clearly. As the great jurist, Ihering, has said, "The exception is frequently only the way in which a principle renews its youth."<sup>208</sup> When, under the guidance of Bentham and Benthamite economists, modern states did at last think they could remove every restriction in the use of money, experience very quickly showed them that what was safe enough for business men was dangerous for the peasant, and the source of perpetual social evil. And when the canonist doctrine is accused of muddle-headed stupidity, all that is meant is that it had not already arrived at that sharp, clear-cut principle, distinguishing between the legitimate and the illegitimate use of money-power, for which modern economists and jurists are still seeking.

§ 72. In the preceding sections we have followed the history of canonist opinion on the various forms of contract for the investment of capital, down to the middle of the fifteenth century. It remains now to sketch its subsequent development, with a view to understanding the position of European thought at the time when the first distinct breach with older principles was made in English legislation. It will be convenient to follow first the course of discussion in Catholic countries, and then that among Protestant divines.

At the end of the fifteenth and at the beginning of the sixteenth century there seemed to be more than a probability that theologians would see their way to a direct justification of interest-bearing loans for business purposes. We have seen that, according to the canonist view of partnership, it was perfectly lawful for a person who could contribute capital to a business, and did not care to contribute any, or a proportionate share, of the labour of superintendence, to place the capital in the hands of another, contracting to receive part of the profit. The amount of the profit was

often fixed at some definite rate; and it was tacitly understood, and often actually stated, that the principal should be returned at the end of the enterprise or of some specified period. But it was of the very essence of the partnership that the interest should be paid only if it had been earned, and the principal itself returned only if the undertaking had prospered. The canonist doctrine would have condemned the man who had endeavoured to compel a merchant who had failed in his enterprise either to pay interest, or even to restore the principal.

But it must at last have become apparent to all who had any intimate knowledge of business life that the riskier the undertaking, the larger would be the return for which an investor would stipulate in case of success. The merchant whose position was such that an investing partner ran scarcely any risk, could make better terms for himself; and still better if he could give some legal security that he would return the capital. The older form of partnership was useful so long as trade was altogether uncertain in its chances; now that it was becoming more stable, some arrangement was necessary which should be more in accordance with altered conditions. It was considerations and forces of this kind which led, in the later part of the fifteenth century, to the *contractus trinus*, or triple contract. An ordinary contract of partnership sharing risk and profit was justifiable; so also was a contract of assurance. A man could enter into partnership with B; he could insure himself with C against the loss of his capital; and he could insure himself with D against fluctuations in the rate of profit. If all this was morally justifiable, why should not A make the three contracts with the same man B? or, to put it in a different way, why should not A place a certain sum in the hands of B, agreeing to receive only a low rate of interest, in considera-

tion of a promise on B's part (a) to restore the capital, and (b) to pay a particular rate of interest in any case, whether the gains were high, low, or even absent. It is perhaps hardly fair to say, as some writers have done, that the *contractus trinus* was from the first a mere subterfuge to escape the canonical prohibition of usury; we can readily perceive how it might naturally be suggested by the prevailing practices of partnership and assurance; but, nevertheless, under the forms of partnership, the contract had become nothing more nor less than a loan on interest; the essential element in partnership, participation in risk, had been contracted away. Yet there were not wanting theologians who argued in defence of such a bargain. The first of any importance was probably Angelus de Clavasio,<sup>209</sup> who issued in 1476<sup>210</sup> a *Summa de Casibus Conscientiæ* for the use of confessors, which became exceedingly popular, and was known as the *Summa Angelica*. Of this work as many as twenty editions, if not more, were printed in the fifteenth century, at Venice, Nuremburg, and Strassburg, and several others appeared early in the sixteenth;<sup>211</sup> so that his teaching undoubtedly reached a wide circle. In Germany it was propagated by the most influential teacher at the new university of Tübingen, Gabriel Biel, who incorporated the paragraph of Angelus on the subject verbatim in his *Commentary on the Sentences*,<sup>212</sup> of which also several editions appeared,—one unaltered as late as 1574. Biel himself died in 1495; but the tradition of his instruction was doubtless still strong at Tübingen when the young Eck, who was afterwards to obtain notoriety as the antagonist of Luther, appeared there as a student. It is unnecessary, therefore, to attribute to him any peculiar originality, when some few years later he came forward as the champion of the triple contract. Academic disputations were the fashion of the age; and Eck, who had become

professor of theology at Ingolstadt in 1510, and was burning to distinguish himself, doubtless looked around for some subject of general interest which might give him an opportunity to display his dialectic skill. The question of usury was one which lay ready to his hand; and a theologian of ability who was ready to argue for a relaxation of the old prohibition was sure of popularity with the business men and financiers of the time. Moreover, the more lax view of partnership, though it had not generally commended itself to theological and canonist opinion, had, as we have seen, been held by divines of great repute, Angelus and Biel; so that Eck, in identifying himself with the new opinion, ran no real risk. Accordingly, in 1514, he lectured on the subject to his class at Ingolstadt;<sup>218</sup> and in the autumn he engaged in a disputation at Augsburg with a number of Carmelite divines, in which he was popularly understood to maintain that a merchant (*i.e.* a man who had borrowed for the purposes of trade, and not merely for consumption) might justly be expected to pay five per cent.<sup>214</sup> The controversy excited very general attention. The more rigid canonists everywhere took up arms: the Bishop of Eichstädt, Eck's diocesan, forbade any further discussion in his diocese; and the Archbishop of Mainz consulted the faculty of his university, which replied that, although scholars might lawfully discuss points not yet decided by the Church, it was expedient to abstain from maintaining propositions which had an appearance of unseemliness.<sup>215</sup>

Undeterred by this rebuff, Eck determined to appeal to the highest authority in canon law, the University of Bologna; and, in 1515, he made an expedition thither, at the expense, we are significantly told, of the great German financiers, the Fuggers.<sup>216</sup> He tells us, in his amusing account of the expedition, that as the jurisconsults were always at variance with the theologians about usury, he

took care to inform the law faculty of his approaching visit, and to bespeak their sympathy.<sup>217</sup> Of the disputation itself, he only tells us that it lasted five hours; that his opponent was the dean of the theological faculty, who was also prior of the Dominicans (an order which distinguished itself by the severe view it took of the usury law); and that he was supported, among others, by a celebrated jurist. No official decision, apparently, was arrived at; yet the warden of the Franciscans (an order always ready to espouse the opposite side to the Dominicans), two of the professors of theology, and the chief professor of canon law, Joannes Crotus, went so far as to put their names to Eck's thesis in token of their approbation.<sup>218</sup>

Eck seems to have been content with his success, and in a very short time his attention was directed to the still more exciting Lutheran controversy. But the discussion at Bologna certainly attracted much attention; as is shown by the satirical reference in the contemporary *Epistolæ Obscurorum Virorum*, to "the favour which usury now receives from theology."<sup>219</sup> And the position of Eck was at once adopted by one of the foremost theologians of Paris, John Major, and incorporated in the new edition of his commentary on the *Sentences* which appeared in this very year.

It will be worth while to pause for a time and notice the way in which the question is presented by Major; and this for two reasons. In the first place, there is some little doubt as to the exact proposition maintained by Eck at Bologna, and the statement of Major on the point is derived from the account given by Crotus, who had himself been present. And a second reason is that Major may fairly be claimed as, in a sense, a British divine. Major was born about 1469, in North Berwick; studied for a short time at Cambridge; became, as early as the opening years of the



sixteenth century, one of the most famous professors of theology of Paris; frequently visited Scotland—once in 1515, the date of the publication of the edition of his commentaries above referred to; spent seven years in Scotland (1518–1525), lecturing at Glasgow and S. Andrews; and finally returned to his native country (1531), and became Provost of the College of S. Salvator in 1535, an office which he held until his death in 1549 or 1550. When we further notice that Major was invited by Wolsey to become a professor at his new foundation at Oxford, we can estimate the weight which the opinion of such a man must have carried.<sup>220</sup>

The matter is thus stated by Major: "That very learned theologian, John Eck, pro-chancellor of the university of Ingolstadt, once put a certain question on a point of contract before our faculty, for its approval or disapproval. But inasmuch as the doctors of our faculty, owing to various obstacles, were not brought together upon the question, the faculty arrived at no decision. Wherefore, with the kindly permission (of the reader), I will give my own opinion on the matter: first putting the case, which is as follows. . . . The case is put still more clearly by John Crotus of Montferrat, the professor of pontifical law at Bologna; and as John Eck held a public disputation on the subject at Bologna in the presence of Crotus, it is probable that Crotus and Eck agree in the way they state it. Titius having a certain sum of money at his disposal, but being ignorant of business, does not venture to engage in trade lest his patrimony should be diminished from want of experience. Moreover, he is unable to find in the market any rent-charges on land which happen to suit him. Accordingly this prudent man, who is anxious for the preservation of his wealth, entrusts the aforesaid sum to a

certain Gaius, an honest and upright merchant, who is wont to make great profit from his business, with the request that he will trade with it. Gaius, however, for various reasons, does not care to receive Titius as a full partner (*literally*, ‘to receive him to profit and to loss’), and agrees with him that his capital shall be safe, and that he (Titius) shall take as his share of the profit—the amount of which is uncertain—five per cent. It is also agreed that each of the contracting parties shall be free to dissolve the partnership when he pleases, on giving three months’ notice. The dispute then is: Is this contract a fair and lawful one, so that Titius is not bound in conscience to restore the five per cent.?”

“On this question,” Major says, “I will lay down two conclusions. The first is that the contract is not usurious but permissible. For it is equivalent to the combination of three contracts, each lawful in itself, and not contrary one to the other; whereof the first is simple partnership, the second is a contract of insurance, the third is the sale of an uncertain gain for a certain.” And his second conclusion, which follows from the first, and may be given without his additional arguments, is that the contract remains a true partnership.<sup>221</sup>

Some points in this exposition deserve attention. Major, following Eck, is careful to suppose (1) that the investor is actuated merely by a prudent desire to preserve what he already has, and not by a sinful lust for gain; (2) that the recipient is described as a merchant, and as making gain by lawful exertion (and therefore not himself engaged in usurious transactions); (3) that this merchant is spoken of as one who is known to be making profit, and not one whose necessities have led him to borrow. It will be observed, further, that the third contract is called “a sale of uncertain

for certain gain"—just as a man might agree beforehand to sell his catch of fish, whatever it might be, for a fixed amount. The transaction, however, is substantially the same as an insurance, and other writers preferred to regard it in that light.

With such authorities as Angelus, Biel, and Major, and the support of the canonists and many of the theologians of Bologna on its side, the view which allowed the triple contract would almost certainly have gained general acceptance among Catholic canonists even in the sixteenth century, had it not been for the Catholic Reaction. The Catholic Reaction was in many respects a return to the severer moral standard of earlier ages; and the tendency of Catholic reformers,—as of the Protestant reformers when they began their work,—was to apply the rigid rules of an earlier time to conditions to which they were no longer applicable. A provincial synod at Milan,—where the counter-reformation first gained a firm foothold,—ordained as early as 1565 that no contract should be made under the forms of partnership by which the return of the principal should be guaranteed;<sup>222</sup> and finally, in 1586, the bull *Detestabilis* of Sixtus V. condemned every sort of promise by one of two partners to restore the capital unimpaired. During the later part of the sixteenth century, therefore, the *contractus trinus* was held to be sinful by most Catholic theologians. But though the Reaction was able to bring about a temporary change in theological opinion, it could but delay for a time the general movement of thought. That particular form of contract had already become general in business; it had been expounded and justified even in the second half of the century by at least one great canonist, Navarrus;<sup>223</sup> and the bull *Detestabilis* could be easily explained away. It was argued that all that the bull had prohibited was a bare promise to restore the

capital, and not a definite contract of insurance ;<sup>224</sup> and also that as it expressly spoke of the borrower as poor and needy, it could not touch cases where he was a prosperous merchant.<sup>225</sup> And accordingly the triple contract found increasing favour with moralists,—especially with Jesuit moralists, who were anxious to prevent the moral standards of the Church from coming into too violent a collision with the necessities of everyday life ; it was defended by university faculties ; and from the beginning of the seventeenth century it was allowed by so large a body of ecclesiastical opinion that no investor who saw an opportunity of making a profitable agreement with a man in business need any longer be deterred by religious scruples. The only precaution to be observed was to describe the contract as a partnership and not as a loan.<sup>226</sup> It must, however, be remarked that even the theory of the triple contract did not cover the case of loans which were made to the poor and not for business purposes. If the Church had taken the step which now looks to us so obvious a consequence of its action, and had withdrawn its opposition to loans as such, it would have seemed to itself to be giving up the only ground on which it could condemn the iniquitous exploitation of the needy.

§ 73. The readiness shown by many of the theologians of the sixteenth century to allow the payment of a moderate interest is doubtless to be explained in part by the history of the *montes pietatis*, institutions which, though they apparently never appeared in England, must have had an important indirect influence on English opinion through their effect on foreign writers.

The *mons pietatis* had itself been suggested by an older practice which had occasioned much discussion among canonists and theologians ; and that was the system of public debt resorted to by many Italian states.<sup>227</sup> The great

republics, Venice, Florence, and Genoa, had found themselves compelled to demand forced loans from their citizens, and to prevent dissatisfaction by paying an annual interest. The practice spread to the other states; and the transition was easy from compulsory loans to voluntary. The term *Mons*, for a sum or heap of money, was the peculiar Florentine term, which came to be generally adopted elsewhere in the sixteenth century.

As to the propriety of paying and receiving interest on such loans there was a warm controversy in the fourteenth and fifteenth centuries. It became a bone of contention between the different religious orders; the Dominicans and Franciscans throwing the weight of their influence on the side of the government and defending the whole system, the Augustinians attacking it. But its justification was not difficult even from the canonist point of view in circumstances such as those of the Italian cities. Even putting on one side the considerations that the loans were originally compulsory, *i.e.* were not made for the sake of gain, and that S. Thomas himself had found no fault with a grateful debtor who of his own free will gave a present to his benefactor, the theory of *interest* could quite fairly be invoked in its defence. The ordinary trader in Florence who was compelled to transfer some of his capital to the state did indeed lose what he would otherwise have gained by its investment; so that the magistrates might honestly describe the payment as a compensation for "damnum et interesse." As we might anticipate, it was the Florentine theologians who set themselves with most zeal to work out this argument. Laurentius de Rudolfis, the first of the canonists to write a special treatise on usury (1404),<sup>228</sup> recognized the right of the state to contract a loan and to pay an interest for it, and even justified the sale of government paper by

the bondholders,—a right frequently called in question by severer theologians. But as authorities were not at one on this last point, he advised good Christians to have as little to do with such transactions as possible. S. Antonine, Archbishop of Florence (d. 1459), followed Laurentius. He advised the clergy not to treat men as usurers who continued to purchase government bonds, nor to put obstacles in the way of their receiving absolution, and he warned preachers to be careful neither to lay unnecessary burdens upon the conscience nor to encourage covetousness. His attitude was, indeed, precisely like that of the Roman Church at present towards ordinary loans: it does not deem it any longer wise to treat them as necessarily sinful in themselves, though they may be sinful in particular circumstances. S. Antonine still urged,—here echoing the teaching of the Church from the earliest time,—that to buy government bonds *in order* to gain wealth was sinful, but not when they were purchased, as a man might purchase a rent-charge, simply as a means of obtaining a secure and steady income suitable to one's rank.<sup>229</sup> We are assured by a writer in 1460 that the lawfulness of the system of public debt was already recognized by the great majority of theologians at Paris.

It was evidently the state *montes* which suggested to the Franciscans the establishment of *montes pietatis* or charitable loan-funds, from which loans might be made to the poor, on the security of pledges or pawns. The first of these was established in Orvieto in 1463; a second, with special papal sanction, at Perugia in 1467; and many others were set up before the end of the century.<sup>230</sup> At first almost entirely the work of the Franciscans, most of them retained an ecclesiastical character, and were managed by clergy. Their purpose was exclusively philanthropic; they were indeed

early attempts to deal with the same difficulties as the co-operative banks of Germany and Italy are now being created to meet.<sup>231</sup> The very fact that even in modern times the ordinary operations of the money market do not meet the need of credit which is felt by artisans and peasant farmers, shows how very salutary such institutions as the *montes pietatis* must have been when they began their work.

But even with papal patronage and the promise of spiritual and temporal advantages to those who should subscribe towards so charitable a work, the managers of the *montes* found it necessary to make a small charge for the loan in order to cover working expenses; and then the attack began. It was led by the rival order, the Dominicans; and the most thorough-going and forcible expression was given to their objections in a tractate by the Dominican doctor, Thomas de Vio, better known by his later title of Cardinal Cajetan. And the point of his argument makes us see that there was something more in the criticism which the Franciscan "Social Reform" movement met with than mere jealousy, though that evidently played a great part. Hitherto, it must be remembered, the payment of any recompense for the use of money had only been justified on one of the following assumptions; either (1) that the recipient of the capital was in possession of a revenue-producing property from which an annual rent could proceed, or (2) that he employed the money in some profit-bringing business (as in the theory of partnership), or at any rate (3) that he had the loan for a short time gratuitously (as in the strict theory of interest); and in every case it was assumed that the recipient was tolerably prosperous. But here was a payment asked for a loan (1) from the very beginning of the period, (2) from a poor man, who obtained it for the relief of



his immediate wants, and was not permitted to trade with it. It was this taking of payment from the poor and needy that Thomas de Vio found so hard to reconcile with the older doctrine of usury. But the Franciscans might fairly reply that,—though a loan without payment were the best of all,—if that was not to be had, a loan at a low rate from a charitable fund was better than recourse to the professional usurer. And this was the judgment of the Lateran Council of 1515, under Leo X. The *montes*, it was decided, could rightly demand a moderate interest, if they could not otherwise furnish the loan, and if their object was not to make gain, but to cover working expenses. The council added thereto a definition of usury summing up most of the modifications which the doctrine had gradually received: “This is the proper interpretation of usury, when gain is sought to be acquired from the use of a thing *not in itself fruitful* (such as a flock, or a field), without *labour, expense, or risk*, on the part of the lender.”

How important was the new departure in the canonist doctrine brought about by the acceptance of the principle of the *montes pietatis* is very evident. Churchmen were more and more reconciled to the idea of payment for the use of money, even by the poor who could make no business investment of the loan. The moral distinction tended more and more to become one between excessive demand and moderate demand, rather than between gratuitous and non-gratuitous loan. The doctrine of usury, which had at first assumed a rigid form, necessary perhaps for the Middle Ages, now began to shape itself in accordance with a broader conception of the oppressive use of money-power; and that was all that the Church really meant by still clinging to the term “usury.”

§ 74. The account of economic thought in the present

chapter is necessarily limited to the period before the middle of the sixteenth century; but it is worth while, for the sake of completeness, to glance at the modification which the doctrine received in the course of the next fifty years.

And first with regard to the theory of rent-charges (Census). We have seen that in the fifteenth century the principle had been steadily maintained that the charge must be based on some definite income-bearing property; it must be a *census realis*. But as early as 1452 a bull of Nicholas V. had exempted the kingdoms of Aragon and Sicily from the "rigour" of this condition. It was represented to the pope that the people of those countries suffered so greatly from usurious loans that it would be a lesser evil to permit them to make rent-contracts based on their movable property, or indeed on their general credit;<sup>232</sup> to permit, in fact, what was known as a *census personalis*. But what was thought desirable in Aragon and Sicily was thought desirable elsewhere; and accordingly we find that a number of the most distinguished theologians of the early part of the sixteenth century, including Major, and Summenhart of Tübingen,<sup>233</sup> began to defend the practice.<sup>234</sup> But here again the counter-Reformation brought with it a return to severer views; and the bull *Cum onus* of Pius V., in 1568, once more declared in the clearest possible way that a definite fruit-bringing basis was absolutely necessary. Yet, as we have already seen in the case of the triple-contract, the reaction came too late. The moral theologians of the order of Jesus, and chief among them Molina in Spain (b. 1535, d. 1600), Lessius in the Netherlands (b. 1554, d. 1623), and Azorius in Germany (b. 1533, d. 1603), set themselves to minimize the purport of the bull.<sup>235</sup> They maintained that in those countries where it had not been properly published it was not in force, and accordingly argued that it had no validity in France, the

Netherlands, and Germany; in the two Sicilies its operation was suspended by a bull of Gregory XIII. confirming that of Nicholas V.<sup>236</sup> Yet both pope and Jesuit theologians might have spared themselves the trouble they had taken; for the increasing ease of obtaining capital on other conditions,—and those more generally convenient than in the form of *census*,—caused the practice to fall gradually into disuse; and the discussion slowly died out.<sup>237</sup> The easiest method of obtaining capital was by means of a loan on *interest* (in the technical sense of that term), when once the doctrine of interest had received that modification, already referred to, which dispensed with the obligation to prove *mora* or *delay*. This modification would seem to have been for the first time propounded with effect upon the Catholic side by Navarrus;<sup>238</sup> though, as we shall see later, it was reached about the same time on the Protestant side by Melancthon. Navarrus, after a distinguished career as a professor of canon law at the Universities of Tolosa, Salamanca, and Coimbra, came to Rome, and there resided six and twenty years, till his death in 1586.<sup>239</sup> His manual for confessors enjoyed a high authority; the ecclesiastical courts began to waver in their decisions, the Genoese Rota even laying down in a case which aroused much controversy, that “the consent of the parties has the same effect as delay;”<sup>240</sup> and the newer position was elaborately formulated and justified in the great treatise of Sigismund Scaccia on commercial law (1618). Scaccia’s treatise received the papal *Imprimatur*, and long remained the highest authority on its subject.<sup>241</sup>

With this concession made, it is apparent that there was no longer any practical difference between payment for the *use* of money (*usura*) and interest; and it might be urged that as this was the case, it would be well to abandon the doctrine of usury altogether. This was substantially the

position of Molinæus;<sup>242</sup> and it seems difficult to find any sufficient justification for the charge of heresy which his treatise called forth (1546). But the term *loan*, *mutuum*, had come to be defined as involving a transference of ownership,<sup>243</sup> and, until that purely legal conception was shaken, it was useless to ask that canonists should recognize the justice of payment for "loans" *eo nomine*. It was in vain that Molinæus tried to show, by a return to the older Roman law, that such a conception of *mutuum* was unsatisfactory. The term *interest* may seem to us to have become but a synonym for *usury*; and the care displayed by most of the secular legislation of the seventeenth century, especially in Germany,<sup>244</sup> to retain the distinction, and, while allowing *interest* or *rents*, to continue to condemn *usury*, may appear mere hypocrisy. But it must be observed that the rough-and-ready distinction between interest, as a moderate payment, and *usury* as an immoderate, was one that was really grounded in the theory of interest itself, and that this accounts for the preference felt for it. For interest was still in theory a compensation for the loss which the lender sustained by not being able to invest his capital himself, *i.e.* it was measured not by the greed of the lender exploiting the needs of the borrower, but by the current rate of business profit.

The point at which the canonist doctrine had arrived towards the end of the century is presented to us in the most interesting manner possible,—in relation to a concrete case; and this case is the more instructive since it furnishes a very close parallel to the controversy on the same subject in England in the reign of Edward VI. In 1553, Albert V. of Bavaria, in the amended Bavarian code issued in that year, declared the permissibility of a *census annuus pro pecuniis mutuatis*, *i.e.* an annual rent (or return) for money lent, so long as it was not excessive.<sup>245</sup> The breach with

older tradition which this involved lay in the use of the term *mutuatis*, or "loaned;" a *census personalis* in itself was, as we have already seen, coming to be recognized as allowable. The example of Albert was soon followed in several of the Protestant States, such as Saxony (1572), Mecklenburg (1572), and Brandenburg (1573). But his successor, William V.,—whose sympathy with the counter-Reformation is indicated by his title, "the Pious,"—felt his conscience ill at ease, and after in vain seeking a unanimous and unambiguous opinion from the theologians both of Ingolstadt and of Rome, at last laid the question, in 1580, before Gregory XIII. "Was the contract commonly entered into in Germany allowable? which ran as follows: Titius, having a certain sum of money, hands it over to Sempronius—a man of any position in life you please," [this to avoid the restriction which might have been suggested, had some such term as "merchant" been employed], "for no defined purpose, but to be used at the pleasure of the debtor," [this, again, to state the question as widely as possible, and avoid the restrictions involved in borrowing for trade purposes], "on the following condition, that Titius should have the right, by contract and legal obligation, sometimes expressed in one form, sometimes in another," [i.e. not necessarily under the form of *census personalis*, or *societas*, or *interesse*], "to receive every year, so long as the said sum is left in the hands of Sempronius, five per cent., and at the end the whole of the capital sum," [i.e. without risk].<sup>246</sup> The reply of Gregory, following the report of a commission of theologians, was to the effect that the contract, in the form in which it was presented, was usurious, since it could not be treated as anything but a loan. But this was not to be regarded as condemning all agreements to pay five per cent.; they were allowable if they took the

form either of a contract of partnership, with security of capital and fixed profit (the *triple contract*); or of a purchase of rent-charge, or of a contract for legitimate interest. Accordingly, in 1588, the duke restored the old prohibition of *loans*, but at the same time caused a number of forms of lawful contracts to be drawn up and published. Such a procedure is apt to appear absurd to modern readers; yet there was, after all, a practical distinction between authorizing *every kind of loan under all circumstances*, and authorizing *a certain number of ways of investing money*, each of which remained subject to conditions which the Church might still endeavour to enforce.<sup>247</sup>

§ 75. English thought, in the sixteenth century, was, however, less likely to be affected by the later Catholic canonist doctrine than by Protestant and Reformed opinion; and it is to that we must now turn. The reforming movement did not at first take the direction which we might perhaps *à priori* anticipate; it did not assail the doctrine of usury just because it was a part of the canonist and scholastic teaching, great as was the repugnance which Luther and many other of the early reformers felt towards the systematic instruction of the theological schools. The hatred of usury was so ingrained in the people that a peasant's son like Luther could hardly be free from it; and the enthusiasm for moral reform, which was a main cause of the new religious movement, reverted naturally to earlier and severer standards. Accordingly, we find that Luther at first took up a far more *intransigent* attitude than the Catholic theologians themselves; and it is not improbable that the fine severity of his utterances helped to deter the Catholic theologians themselves from positions to which they were already tending. It is difficult to define his attitude with any very great precision; there is no reason to suppose that

he had a minute acquaintance with the literature of the subject; and it is evident that in the popular mind, with which Luther was in sympathy, the various ideas of interest and rent-charge (or annuity) were by no means so distinct from one another as they were in the text-books. Luther's position may, however, perhaps be stated thus: he abominated and vehemently attacked all forms of usury in which any payment was demanded from the deserving poor for the use of money. But from persons able to pay he would permit payment to be received in the two cases of *rent-charge* (*census, zins*) and *interest*, interpreted in their original and most narrow sense. The *census*, or rent-charge, was justifiable only when it was based on a definite piece of land, when the rate was low, and when the investor shared in the risks to which the land was subject, such as those due to the seasons.<sup>248</sup> He altogether objected to the practice by which towns contracted loans on the general security of their communal lands without attaching the obligation to definite arcas; and, as we might anticipate, he absolutely condemned the placing of a charge upon so intangible a thing as an artisan's skill—the so-called *census personalis*.<sup>249</sup> Interest, again, he allowed only in the sense of compensation for loss (or gain sacrificed) by the non-return of a loan at a stipulated time; but even then it must be a real *damnum emergens* or *lucrum cessans* that was compensated for, and the payment must be a moderate one.<sup>250</sup> In his earlier writings, indeed, Luther went so far as to declare that the theory of interest was a mere pretext; no man could so certainly count on making a profit with his own money that he could justly contract to receive compensation for foregoing the use of it.<sup>251</sup>

It was Melancthon who first, on the Protestant side, realized what were the consequences of the acceptance of the principle of interest under the new conditions made



possible by modern commerce. The old doctrine itself he was ready enough to defend, and he adduced in its support all the well-worn arguments about *fungibles* and *consumptibles*, retention of ownership, etc.<sup>252</sup> But, then, he recognized the validity of interest much more unreservedly than Luther. As to the compensation for *damnum emergens* he had no doubt; and he followed the canonists of the previous century in accepting without scruple the claim for *lucrum cessans* when it came from investors who were in a position to win profit in trade.<sup>253</sup> With the multiplication of opportunities for profitable business ventures, all who were in a position to lend money came into this category. But Melancthon went beyond the earlier canonists, and, like his contemporary Navarrus, was ready to allow that interest might justly be demanded even when there was no delay in repayment, *i.e.* that it might be bargained for from the very day that the loan was contracted.<sup>254</sup> The only reservations he had to make were that the interest should be moderate, according to the estimate of just men, or "the judge,"—an opinion which doubtless helped to bring about the limitation of the legal rate of interest by the public authority,—and that no recompense should be paid when the lender would not really have been able to make as great a gain himself.

The final breach with the mediæval doctrine among those outside the Roman Communion came from Calvin, who, in a celebrated letter to Ecolampadius (first printed in 1575),<sup>255</sup> followed the French jurist Dumoulin (or Molinæus) in denying that a payment for the use of money was in itself sinful. He pointed out the absurdity of regarding money as barren, when it was possible to purchase with it property from which a revenue could be obtained. The judgment of Calvin was certainly of much influence in weakening the old repugnance to usury; especially as the great commercial people

of the next century, the Dutch, chanced to be Calvinists. Moreover, it is at once apparent that a justification of usury itself was far more impressive than the allowance of any number of exceptions. Calvin's teaching was, therefore, in a very real sense, a turning-point in the history of European thought. But it is seldom observed that Calvin's attitude towards any particular transaction would have been precisely the same as that either of Melancthon or of the average contemporary Catholic theologian. This is evident from Calvin's own words:

"Although I do not visit usuries (payments for the use of money) with wholesale condemnation, I cannot give them my indiscriminate approbation, nor, indeed, do I approve that any one should make a business of money-lending. Usury for money may lawfully be taken only under the following conditions, and not otherwise." Among these conditions are: "That usury should not be demanded from men in need; nor is it lawful to force any man to pay usury who is oppressed by need or calamity," and "he who receives a loan on usury should make at least as much for himself by his labour and care as he obtains who gives the loan."

Calvin very clearly realized the danger of appearing to give a general approbation to the taking of payment for the use of money. He begins his letter by remarking that "he had learnt from the example of others how dangerous a business it is to give an opinion." "For if we altogether condemn usuries we shall impose severer restrictions upon consciences than the Lord Himself desired; while, if we make the least concession, many will use it as a pretext, and will snatch at a bridleless license, which can never afterwards be checked by any moderation or exception." It is not clear that the letter was ever intended for publication.

Calvin tells Æcolampadius that to him alone he would not hesitate to speak his mind; but Æcolampadius asks the advice on behalf of a friend, and Calvin hesitates. He only consents to give an answer on condition that Æcolampadius should pay a prudent regard to his friend's character in communicating it to him.

What Calvin feared took place. In after centuries Calvin's great authority was invoked for the wide proposition that to take reward for the loan of money was never sinful; and a couple of his sentences were taken from their context, and quoted without regard to the conditions by which they were limited. His carefully qualified approval of the claim for usury when it was made by one business man on another, was wrested into an approval of every sort of contract concerning the loan of money; and Reformed and Protestant theologians remained quite as far off as the Catholic theologians were from any satisfactory criterion of the just use of money-power.

§ 76. The movement of thought in the rest of Western Europe in the fifteenth and sixteenth centuries was certainly shared in by England. Until English mediæval commercial law has received more attention than it has at present, it will be impossible to define the precise relation of the confessional and the ecclesiastical courts towards business practice. It may be desirable, however, to illustrate the strength of the feeling against usury proper—a feeling not at all inconsistent with an allowance of various contracts which to us are hardly distinguishable from loans for reward, but which did not look so to the men of the time. The first illustration may be drawn from *Piers Plowman* (of which the first text is ascribed to the year 1362, and which was worked over again and supplemented in 1377 and 1393). As usual in mediæval treatises on moral

theology, the author deals with such subjects under the head of *Avarice*, one of the seven deadly sins. He makes each of the seven present his confession. The confession of *Avarice* affords an entertaining picture of the conditions of the time. As apprentice he learnt to lie and to weigh goods wickedly, and he continued his education in evil at the great fairs of Winchester and Wey, whither he was sent with his master's goods. Among the drapers he learnt how to cheat in measuring cloth, and how to stretch it so as unfairly to increase its size. Then at last, from Lombards and Jews, he learnt the usurers' trade. He seized the pledges whenever he could, for the pledges were more valuable than the money he lent; and when debtors were in arrears with their payments, he was able to seize many a manor.

"I have more manors thro' rerages than thro' *miseretur et commodat*."

referring to the verse of the psalm about the good man who is merciful and lendeth. "What man of me borrowed, he bought the time," referring again to the old argument against usury that it was a payment for time,—the gift of God. *Repentance* is then brought in to tell him that he can never be forgiven unless he makes restitution—

"The pope and all his peniteneers, power them faileth  
To assoil thee of thy sins, *sine restitutione*  
*Nunquam dimittitur peccatum nisi restituatur ablatum.*" 256

In the middle of the next century, about 1450, a certain John Myrc, a canon in a monastery in the West of England, drew up a sort of manual for parish clergymen. The parish priest is here instructed to tell his parishioners not only that usury itself is sinful,—“to lend 12*d.* to have 13*d.*,”—but also that to sell an article to a man at too high a price

is just as bad. A form of excommunication is given, and it includes all "usurers that, by cause of winning (*i.e.* in order to win), lend their catall (*i.e.* capital in whatever shape, probably here, in the first instance, actually cattle), till a certain day for a more price than it might have been sold at the time of the loan."<sup>257</sup> Myrc provides also a set of questions that should be asked at confession; and we find the usual teaching under the head of avarice—

"Hath any mon up-on a wedde  
Borowet at the oght in nede  
And afterward when he pay wolde  
Hast thou then hys wed wythholde?  
For thagh he fayle of hys day  
Thou schuldest not his wed wyth-say.  
Hast thou i-land any thyng  
To have the more wynnynge?"<sup>258</sup>

These sentiments were not merely those of the clergy, who might be imagined to have set up an impossible standard of morality, or of popular satirists like the author of *Piers Plowman*. Far into the fifteenth century the feeling against usury was shared by the great body of the business community; which is sufficient evidence that the prohibition was not felt to be a hindrance to trade. We may perhaps notice a contrast between this period (c. 1400) and a century and a half later (c. 1550). In 1550, though we shall find the clergy equally vigorous in their denunciations of usury, it is clear that they have no longer the sympathy of the business community. They are evidently trying to stem a current of feeling setting strongly in the opposite direction. But before coming to that, let us look at the action of the business community in the earlier period, as represented by the elected mayor and aldermen of London.

In 1363 Edward III. issued a writ to the authorities of

London, congratulating them upon their efforts "to put an end to the horrible vice and knavery of usury," and authorizing them to make "a reasonable ordinance among themselves" for its punishment; and to establish a special tribunal, consisting of the mayor, two aldermen, and four commoners, to deal with such cases as were brought before them. Accordingly the mayor and aldermen issued a very thorough-going ordinance, threatening imprisonment of the usurer until restitution was made to the injured party, as well as the forfeiture of a like sum to the city exchequer. Moreover, "the said good folks do will that every person who shall be attainted three times of such knavery shall forswear the said city for ever, under penalty of perpetual imprisonment."<sup>259</sup> The sword of the law was sharpened still more keenly against *brokers*, a class of business agents and intermediaries that had already begun to spring up, and who were especially unpopular as assisting in usurious bargains. "Whereas such bargains are but rarely carried out without false brokers, who for their own profit do often intermeddle so as to deceive both parties, the said good folks have also ordained that all those who shall from henceforth be attainted of acting as brokers in such knaveries shall, the first time, be put in prison for one whole year; and if they shall be a second time attainted thereof, they shall forswear the city for ever."

Not content with this, some seventeen years later, in 1391, the mayor and aldermen issued another ordinance on the ground that the former was "too obscure," and because it was "not comprised or declared therein what is usury."<sup>260</sup> They accordingly declare "if any person shall lend or put into the hands of any person, gold or silver, to receive gain thereby, or a *promise for certain without risk*, such person shall have the punishment for usurers in the said ordinance

contained." They went on to order that no broker should set up business until he had been sworn before the mayor, and had found security to the extent of £100 that he would not "intermeddle to make any bargain of usury." The city registers contain a form of oath to be administered to brokers, which was transcribed as late as the reign of Henry V.<sup>261</sup>

That these ordinances were not a dead letter is sufficiently illustrated by the case of Ralph Cornwell, in 1377.<sup>262</sup> Here a debtor refused to pay the sum of £2 which was charged for the loan of £10 for three months, and the London court not only freed him from the obligation, but imprisoned the lender until he should pay to the city twice the sum he had demanded.

During the whole of the later Middle Ages, usury was not only a religious offence in England, but also a civil offence. The last of the old legislative prohibitions of usury is in a statute of 1487.<sup>263</sup> But it must be remembered that, as the government of Edward IV. had been popular with the merchants of London, so the government of Henry VII. was at first mainly supported by the country gentry, and that this statute probably no longer echoed the feelings of the business world.

Very soon afterwards the influence of the later canonist doctrine began to make itself felt. As early as 1495 a statute, while prohibiting usury, expressly exempted "*lawful penalties for non-payment of the same money lent;*" and implied that a loan upon the security of land, the lender receiving the annual produce, would be justifiable *if the lender ran the risk of losing the capital sum.*<sup>264</sup>

The decisive step, however, of breaking away from the old tradition was not taken until 1545, at the end of the reign of Henry VIII., when, under cover, as it would seem,



of the theory of interest, a payment of ten per cent. per annum was permitted by law.<sup>265</sup>

But many of the English Reformers shared in the sentiments of Luther; and as soon as Edward VI. came to the throne they were loud in their remonstrances. When one realizes the crying evils of the time, especially the pillaging of the poor by the rich which took place under the cover of the religious changes, one can scarce help sympathizing with the small band of enthusiastic preachers and honest officials who tried to plead the cause of the poor. One of the ablest and most fearless of them, Crowley, addressed to Parliament, in 1551, an "Information and Petition against the oppressors of the poor commons of this realm," wherein he expresses himself as follows:—

"Now I will speak . . . of the great and intolerable usury which at this day reigneth so freely this realm over all, and chiefly in the city of London, that it is taken for most lawful gains. Yea, it is wellmost heresie to reprove it. for men say it is allowed by Parliament. Well, the most part, I am sure, of this most Godly assemble and Parliament do know that the occasion of the act that passed here concernynge usury was the unsatiable desire of the usurers, who could not be contented with usury unless it were unreasonable much. To restrain this greedy desire of theirs, therefore, it was communed and agreed upon and by authority of Parliament decreed that none should take above £10 by year for the loan of an £100.

"Alas that ever any Christian assemble should be so void of God's Holy Spirit that they should allow for lawful any thing that God's Word forbideth. Be not abashed (most worthy consellers) to call this act into question again."

And, again, with regard to the biblical command, "I am not ignorant what glosses have been made upon this

place, and how men have wrested and made it no precept but a counsel of our Saviour; and therefore not to infer necessity to Christians, but to leave them at liberty either to do it or to leave it undone. Oh, merciful Lord! what manner of religion is it that these men profess. . . . And doubt ye not (most worthy counsellors), what so ever he is that will defend or teach that any one little iota of the counsels of Christ should be so vainly spoken that any of his flock might refuse to practise the same in his living to the uttermost of his power, is no less than a membre of the Devil and a very Antichrist.”<sup>266</sup>

For the time the reaction carried the legislature before it, and the statute of Henry VIII. was repealed in 1552 under Edward VI.<sup>267</sup> The best face was put upon the business, and it was protested that the previous act had not been intended as a license to engage in usury. “The . . . act was not meant . . . for maintenance and allowance of usury, as divers persons blinded with inordinate love of themselves have and yet do mistake the same . . . and yet nevertheless the same was of the said act permitted for the avoiding of a more ill and inconvenience that before that time was used and exercised. But forasmuch as usury is by the Word of God utterly prohibited, . . . for reformation thereof” the act of Henry VII. is repealed.

It was not till almost twenty years had passed (1571) that Parliament returned to the permissive policy of the act of 1546, and again drew a distinction between contracts for more than ten per cent. and those for a smaller payment.<sup>268</sup> The reason for doing so was fairly enough stated: the Act of Edward VI. had “not done so much good as was hoped it should,” since it could be evaded “by way of sale of wares, and shifts of interest.”

The intellectual situation in England in the second half

of the sixteenth century is in many respects so different from that of the later Middle Ages, that it becomes exceedingly difficult to present the growth of opinion in anything like so precise a manner as was possible in dealing with an earlier period. For, in the first place, the teaching of the theologians no longer commanded the acquiescence of the laity; lawyers and merchants no longer hesitated to boldly claim a reward for the loan of money. And, then, among Churchmen themselves, the removal of a living centre of authority, that of the Papacy; the lessened prestige both of the canon law and of the ecclesiastical courts; the marked divergencies in the sympathies of various schools in the Church, rendered possible by the policy of comprehension adopted by the Elizabethan government; all these causes tended to hinder the formation of a strong and consistent tradition. Accordingly we find the clergy both at variance among themselves, and also in large measure disregarded by the business world. A statement of the opinions of the Elizabethan divines has, therefore, less interest than the canonist doctrine, since it no longer represents, as that did, the main current of economic thought. But, without attempting to determine the importance to be assigned to each, or attempting to construct a system out of their utterances, it may be interesting to glance at some of the chief English writers. They seem to indicate, not only the influence of the general European discussion, but also some features peculiar to England.

“*The Discourse upon Usurie, by waie of Dialogue and Oracons*, by Thomas Wilson, doctor of the civil laws, one of the maisters of her maiesties honourable courte of requests,” was written, to judge from internal evidence, some little time before the act of 1571.<sup>269</sup> It was printed in 1572, and again in 1582 and 1584. It maintains the rigidest doctrine; and it

ends with the conversion of the civilian, lawyer and merchant, who are introduced into the dialogue to defend contemporary practice.<sup>270</sup> The only concession Wilson makes is in allowing "damages and interest" when the borrower does not return the loan at the day appointed.<sup>271</sup> He refuses to draw any distinction between lending to the well-to-do and lending to the needy; he utterly rejects the argument which was beginning to be commonly used that "usury is not hurtful unless it be biting;"<sup>272</sup> and that "where charity is not broken, and both parties do feel no harm, but rather gain, and where men do to others as they would have others do to them, there cannot be any usury committed."<sup>273</sup> It is noticeable that the civilian, though he is afterwards converted, at an earlier stage of the argument appeals to "Carolus Molinaeus . . . a notable lawyer," as being in favour of a statutory limitation and the permission of charges below a certain rate;<sup>274</sup> and that he reminds his adversary that the Calvinist divines,—“the best of the age, as Bucer, Brentius, Calvin, and Beza,”—“are not against moderate usury, but do rather think it needful to be permitted.”<sup>275</sup>

Bishop Jewel, in his *Exposition upon the Epistles to the Thessalonians*, written some time before 1571, but not published till 1583,<sup>276</sup> takes up a similar position. “What if one rich man lend money to another? What if a merchant take money to usury of a merchant, and both be the better, and both be gainers? Here is no sting or biting! . . . What if a thief or pirate take usury of a thief or pirate?” He goes on to argue that the merchant who trades on borrowed capital has to raise the price in order to pay the interest. “Who then payeth the ten pounds? . . . The poor people that buy the corn. They feel it in every morsel they eat.”<sup>277</sup> He gives the most limited interpretation to the

doctrine of interest, reducing it to little more than a mere hope and courteous request for compensation for loss.<sup>278</sup> But, curiously enough, he does not hesitate to use the term "put out at usury" for a justifiable partnership of the kind described in an earlier section [§ 64], where the investor shares the risk. Yet he would limit even such an investment to cases where the investors were incapable of trading for themselves, such as "orphans, madmen, and diseased merchants."<sup>279</sup>

The impulse towards a more liberal doctrine was given by the publication in English, in 1577, of Bullinger's *Decades*, and by the order in the Province of Canterbury, in 1586, that all the younger clergy should obtain a copy, and make an abstract of one sermon every week.<sup>280</sup> For Bullinger declared that bargains to receive payment for the use of money were "not in themselves unlawful, nor yet condemned in the Holy Scriptures." "Usury is in the scripture condemned, so far as it is joined with iniquity, and the destruction of our brother or neighbour."<sup>281</sup> And again, "Usury is forbidden in the Word of God, so far forth as it biteth his neighbour."<sup>282</sup>

The position of the more learned clergy at the end of the century is probably represented by Miles Mosse, whose sermons preached at S. Edmundsbury, the *Arraignment and Conviction of Usury*, were published in 1595. The occasion of the sermons was the growth of that sort of petty and mean usury, which, however inevitable it may have been, was certainly a grievous feature in the life of the time. Against usury of that kind he cannot find words strong enough. But Mosse had been affected by the teaching of Calvin and his school,—which he frequently refers to in respectful language,—and he had a more competent knowledge of mediæval theology than most of his contemporaries. Accordingly he takes great pains to explain and justify

investments of the nature of partnership, where the lender does indeed share in the risk.<sup>283</sup> When this was once distinctly granted, it was but a short and a natural step to accept the principle of a fixed payment for the use of money, —a diminution in the rate being exchanged for the share in risk. English writers would seem to have arrived at this point later than those of other countries, and doubtless the reason is to be found in the religious revolution which had cut them off from the later canonist development.

## NOTES.

1. J. S. Mill, *Unsettled Questions of Political Economy* (3rd ed. 1877), 123, seq.; Cairnes, *Logical Method of Political Economy*, 16.

2. Sidgwick, *Principles of Political Economy* (1883), 14-18.

3. Thus the work just cited has a separate and important section devoted to "the Art of Political Economy." Professor Sidgwick remarks (401), "'The principles of Political Economy' are still most commonly understood, even in England, and in spite of many protests to the contrary, to be practical principles,—rules of conduct public or private. This being so, it seems to me that confusion of thought is likely to be most effectually prevented, not by confining the Theory of Political Economy to economic *science* in the strictest sense, . . . but by making and maintaining as clearly as possible the distinction between the points of view of the Science and the Art."

4. *E.g.* Professor Marshall's Preface to Price's *Industrial Peace*, x.

5. Brentano, in Schönberg's *Handbuch*, 905.

6. Quoted in Roscher's *Geschichte der National-ökonomik*, Vorrede v.

7. On the *Manualia confessorum* detailed information is given in Stintzing, *Geschichte der populären Literatur des römisch-kanonischen Rechts in Deutschland*, ch. x. Stintzing well remarks that "gegenüber dem starren Formalismus der alten Pönitenzialbücher war die Ausbildung der Kasuistik ein entschiedener wissenschaftlicher Fortschritt" (491). He notices also that "die fortschreitende Ausdehnung theologischer Disziplinen auf das Gebiet der Jurisprudenz in einer Zeit welche diese beiden Wissenschaften einander so nahe gestellt hatte, dass die bedeutenderen Juristen oft zugleich halbe Theologen, und die Theologen meistens halbe Juristen waren, kann uns an sich nicht befremden, wenn . . . die praktische Veranlassung dazu dargeboten war" (*ib.*). See also Neumann, *Geschichte des Wuchers*, 46.

8. Stintzing, *ib.* See also Endemann, *Studien*, i. 31.

9. On the "monographists," see Endemann, *ib.*, 32, seq. Cf. Roscher, *Geschichte*, 18.

10. Roscher, 24 n.

11. *Supra*, § 17.

12. Funk, *Geschichte des kirchlichen Zinsverbotes*, 27, 28.

13. Endemann, *Studien*, i. 27; Stintzing, quoted in n. 7, *supra*. Endemann begs the question entirely when he lays down that "the demands of real life (Wirklichkeit) counted for nothing in theology and philosophy in comparison with dogma" (29).



14. Thus the treatise of Guido Papa, a member of the Senate of Grenoble, on *Contracts*, written in 1462, is more theological in character than those of many professed theologians, though the author was neither a theologian nor a canonist; Endemann, i. 34.

15. *Ib.*, 30, 31.

16. *E.g.* even so perfervid a cleric as Capistrano, *ib.*, 35.

17. Thus in the English universities "in a great number of cases the degrees (in canon law and in civil law) were taken at the same time." "Cambridge . . . always retained the shadow of the double degree, for the Leges or LL. to which she admits her doctors are a possible survival of the 'Utrunque Jus' of the old University system;" Stubbs, *Lectures*, 310, 312, 330. The courses of study requisite for civilians and canonists are given in Mullinger, *Hist. of the Univ. of Cambridge*, 26.

18. Hallam, *Middle Ages* (ed. 1878), iii. 424.

19. Goldschmidt, *Universalgeschichte des Handelsrechts*, 291, n. 182; 408, n. 69, and elsewhere.

20. Endemann, *Studien*, ii. 402-407.

21. Neumann, 74, seq.

22. The London *Liber Albus*, trans. Riley, 319; Heath, *Grocers*, 304 n. Cliffe Leslie's misunderstanding of London usage (in his *History and Future of Interest and Profit*, *Fortnightly Rev.*, Nov. 1881) will be referred to later.

23. Stubbs has maintained that the canon law (as well as the civil law) "was never received in England as authoritative, except educationally, and as furnishing scientific confirmation for empiric argument; or, in other words, where expressly or accidentally it agrees with the law of the land." Lyudwood's *Provinciale*, collected in the reign of Henry V., he regards as containing such canons as had been definitely "adopted" in England, and as becoming "the authoritative canon law of the realm;" *Essays*, 307, 309. But this theory is difficult to reconcile with the almost complete absence of such a topic as *usury* from the *Provinciale*. Were not provincial canons regarded rather as supplementary to the general legislation of the Church?

24. Stubbs, *Lectures*, 305.

25. *St. of the Realm*, i. 308.

26. Quoted in Gross, *Gild Merchant*, i. 136, n. 2.

27. Endemann, ii. 43-47; cf. Bruder in *Zeitschrift f. d. gesammte Staatswissenschaft*, xxxiii. 689.

28. Cunningham, *English Industry and Commerce* (new ed.), i. 249, 250.

29. *Supra*, § 17.

30. The *Instructions*, which have been edited by E. Peacock for the Early Engl. Text Soc. (1867), were a translation made from the Latin *Pars*

*Oculi*; see especially 12, 22, 39. The English term for usury was *okere*; and these *Instructions* say—

“Usure and okere that beth al on.  
 Teche hem that they uso non;  
 That ys a synne fulle grevus  
 By-forc owre lord swete Ihesus.”

31. *The Merchant's Lesson* in *The Voice of the Last Trumpet*, 1550; *Select Works*, 86.

32. See, for instance, the quotation from Mr. Chamberlain, in Keynes, *Scope and Method*, 125.

32a. Professor Foxwell remarks of the English economics of twenty-five or thirty years ago, “It was distinctly unmoral (a more serious defect than immorality, which provokes a reaction), inasmuch as it claimed that economic action was subject to a mechanical system of law, of a positive character, independent of and superior to any laws of the moral world;” and again, “With the old school the worst scandals were calmly referred to ‘demand and supply,’ as though such a reference were final:” in the (Harvard) *Quarterly Journal of Economics*, ii. 85, 102.

33. Roscher, *Geschichte*, 6.

34. Soulo's *Dictionary of English Synonyms*, Boston, 1881.

35. Professor Cunningham is almost alone among professional economists in giving attention to what may be called economic casuistry. See especially his *Use and Abuse of Money* (1891).

36. Since the sentence in the text was written, this characteristic of modern theology has been lamented in a forcible article by Mr. Gore, on *The Social Doctrine of the Sermon on the Mount*, in the *Economic Review*, ii. 145. One or two passages may be quoted. “The Church at large, and each national or local Church, is to be a society binding and loosing in the name of Christ: that is—so far as concerns morality—adapting Christ's moral teaching to the circumstances of each age and place; declaring this to be lawful and that to be unlawful; and applying these abstract principles to individuals in moral discipline” (146). “We need a careful organization of moral opinion—that is, a new Christian casuistry. The new casuistry will be a formulating in detail of Christian moral duty, with a view to seeing, not how little a Christian need do in order to remain in Church communion, but how a Christian ought to act. . . . I think it would be possible . . . to form small circles of representative men in each district, where special occupations prevail, or within the area of special professions, to draw up a statement of what is wrong in current practice, and of the principles on which Christians ought to act. A central body would meanwhile be formulating with adequate knowledge

the general maxims of Christian living. I do not see why ten years' work should not give us a new Christian casuistry. . . . When it was done by private means, it might come under more official sanction" (158). Mr. Gore's paper has been republished for the Christian Social Union, by Percival and Co., London.

37. *Select English Works of Wyclif*, ed. Arnold (1871), iii. 153, 154; cf. *English Works* (E.E.T.S.), 24, 25.

38. The *Persones Tale: De Avaritia*. See also Ruskin, *Stones of Venice*, ii. 344, as to the representation of Avarice on the carved capitals of the Ducal Palace at Venice.

39. *De Avaritia*.

40. *Select English Works*, iii. 143, ch. xvii; *English Works* (E.E.T.S.), 276.

41. *Select E. W.*, ch. xviii.

42. *Engl. W.*, 276.

43. Wyclif, *Sel. E. W.*, 147; *Eng. W.*, 226.

44. *Select Works*, 92.

45. Roscher, *Geschichte*, 20.

46. *Ib.*; cf. on Hoyta, 21.

47. *Supra*, § 15.

48. Roscher, *Geschichte*, 7 (resting upon Endemann), gives an exaggerated impression here.

49. *Supra*, § 16, and n. 35 to bk. i. ch. iii.

50. *Parson's Tale: De Avaritia*.

51. See Montchrétien's *Traicté*, ed. Funck-Brentano (1889), 140. I have shown in the *English Historical Review*, vi. 779, that there is hardly a single argument or proposal in the treatise which is not derived from earlier writers.

52. *Wealth of Nations*, bk. iv. ch. ii.; ed. Rogers, ii. 28.

53. Fawcett even laid down that "capital is as indispensable a requisite of production as either labour or appropriate natural agents;" *Manual*, bk. i. ch. ii. M. Gide remarks sarcastically that the "threefold division possesses the advantages of simplicity and ease; its demerit is that it does not state what should be stated, and does state what should not be stated;" *Principles of P. E.*, Engl. trans. (1891), 93.

54. Cf. Endemann, *Grundsätze*, 142.

55. *Ib.*, 167. Cf. Bruder in the *Tübingen Zeitschrift*, 688, 689; the account of Langenstein, in Roscher, 18; and of the Reformers in Wiskemann, 141.

55a. Janssen, *Geschichte des deutschen Volkes*, i. 435 n. For an account of Rolewinck, *ib.*, 97.

56. "Negotiatio licita redditur . . . cum aliquis . . . lucrum expetit non quasi finem sed quasi stipendium laboris;" Aquinas, *Summa Theologica, Secunda Secundae*, Q. lxxvii., art. 4.

57. Cf. Endemann, *Grundsätze*, 167, n. 691.

58. Endemann, *Studien*, ii. 212.

59. Thus Professor Marshall, in *Principles of Economics*, i. 8, speaking apparently of his own practice, says, "'Value' by itself always means value in exchange."

60. Roscher, *Geschichte*, 7; cf. Endemann, *Grundsätze*, 110, 111.

61. Lassalle, *Système des droits acquis* (Fr. trans.), i. 260. The same idea is expounded in a briefer form in his *Capital et Travail* (Fr. trans.), 210: "J'ai déjà expliqué ailleurs que c'est la *particularité* qui caractérise le moyen âge sous le rapport historico-philosophique. Ce n'est plus l'homme dans son ensemble, mais sa *volonté* et les *actes particuliers* de sa volonté qui sont considérés comme propriété privée. Dans la domaine économique cela donne le système des services particuliers, un système de rapports de droits d'un individu particulier, qui se résolvent en toutes sortes d'*actes particuliers* et de *produits particuliers* (valeurs d'*usage*, à distinguer de la valeur d'échange générale. . . ). Tel est le système des services et des prestations qui détermine principalement l'économie et la production du moyen-âge."

62. This was pointed out admirably by Rodbertus: "Der Tauschwerth ist nur der historische Um- und Anhang des socialen Gebrauchswerth aus einer bestimmten Geschichtsperiode. Indem man dem Gebrauchswerth einen Tauschwerth als logischen Gegensatz gegenüberstellt, stellt man zu einem logischen Begriff einen historischen Begriff in logischen Gegensatz, was logisch nicht angeht;" quoted by Wagner. This position is entirely accepted by Wagner, who has in consequence completely altered his treatment of Value in the second edition (1879) of his *Lehrbuch*, i., § 35, and n. 4. Wagner adds (§ 40) some remarks peculiarly applicable to the present discussion: "Je mehr die Eigengewinnung der Güter vorherrscht, daher regelmässig in primitiveren Verhältnissen des Volkslebens, bei sog. Naturalwirthschaft, desto mehr überwiegt die Gebrauchswerthschätzung die Verkehrswerthschätzung, die individuelle die sociale Gebrauchswerthschätzung, und die Schätzung nach dem concreten Gebrauchswerth diejenige nach dem abstracten."

63. *Supra*, § 6.

64. Roscher, *Geschichte*, 7.

65. *Supra*, § 17.

66. Cf. Endemann, *Grundsätze*, 111

67. Funk, *Geschichte*, 6.

68. Thus Endemann cannot forget the "Kampf der Gegenwart" against "Klerikalismus," *Studien*, ii. 419.

69. This charge is frequently brought by Endemann, e.g. *Studien*, i. 39, 110, 115; ii. 360.

70. *Supra*, § 22.

71. As is possibly suggested by § 22, p. 196.

72. Neumann, *Geschichte des Wuchers*, 132, seq.

73. *Ib.*, 139.

74. *Ib.*, 126.

75. *Ib.*, 128.

76. Goldschmidt, *Handbuch des Handelsrechts*, i., pt. i. 310, § 5.

77. See the further explanation, *supra*, § 22.

78. 1214 (Cologne), Neumann, 155; 1235, 10 per cent. every two months, Matthew Paris, *Chronica Majora*, iii. 329.

79. Endemann, ii. 245.

80. Savigny, *Hist. of Roman Law*, cap. 42.

81. Funk, *Geschichte*, 34, 41.

82. *Supra*, § 22.

83. Endemann, ii. 272, 275.

84. *Ib.*, ii. 275.

85. *Ib.* ii. 269.

86. *Secunda Secundae*, qu. 78, 2. 1: "Recompensationem vero damni, quod consideratur in hoc quod de pecunia non lucratur, non potest in pactum deducere, quia non debet vendere id quod nondum habet, et potest impediri multipliciter ab habendo;" qu. in Funk, *Zins u. Wucher*, 78, n. 2. It is necessary to modify the statements in § 22, p. 197, in the sense indicated in the text.

87. Qu. in Schmoller, *Ansichten*, 106.

88. *E.g.* Henry of Segusia, cardinal-bishop of Ostia (hence called Hostiensis), and Pope Innocent IV.; Funk, *Geschichte*, 32; Endemann, ii. 277.

89. Funk, *Geschichte*, 41, cites Nicholaus de Tudeschis (called Panormitanus), who died 1443; Bernardine of Siena, d. 1444; Angelus, d. 1495; Almainus, d. 1515; and Thomas de Vio (Cardinal Cajetan).

90. Neumann, 158, 170.

91. Endemann, ii. 282.

92. *Ib.*, ii. 283.

93. Thus Funk, *Geschichte*, 41, says, "Zum Theil nur eine bestimmte Art des *titulus damni emergentis* is der *titulus morae*;" and cf. *Zins u. Wucher*, 79.

94. *Geschichte des Wuchers*, 172.

95. See especially his *Inhaltsverzeichniss*, xiv.

96. Endemann, ii. 264-266. Scaccia laid down "Tantum operator consensus partium quantum mora," and "Mora pacto aequiparatur."

97. *Ib.*, ii. 253.

98. Marshall, *Principles*, i. 629 n.

99. Quoted *supra*, § 22.

100. Neumann, 223, and n. 2, 229. Even Endemann, ii. 105, recognizes this.

101. *U.s.*, 215, 216, but without adducing proof.

102. *Ib.*, 223.

103. Cf. *ib.*, 227.

104. *Ib.*, 231.

105. *Ib.*, 230-233.

106. *Ib.*, 234.

107. *Ib.*, 240.

108. *Ib.*, 236, and n. 2.

109. *Ib.*, 239.

110. *Ib.*, 266, seq.

111. *Ib.*, 174.

112. *Ib.*, 179, 180.

113. Cf. Endemann, ii. 104.

114. Endemann, ii. 123, seq., gives an obviously biassed account of this discussion.

115. An abstract of Langenstein's position is given in Roscher, *Geschichte*, 20. Endemann, ii. 190, tells us that Langenstein (or Henricus de Hassia) was regarded as a high authority on the subject of contract, and that his opinions on the rent-contract were paid special attention to by most later writers.

116. *E.g.* in Danzig; Neumann, 236.

117. Endemann, ii. 112. When we notice what the current rate was, as shown in Neumann's table, we discover that Martin's last condition allowed considerable latitude.

118. Endemann, ii. 112, 113, 126.

119. *Ib.*, 129, 131. The English statutes of the sixteenth century which authorized the municipalities to enter upon lands where houses had been allowed to fall into decay, expressly provide that the same "groundes" should be "clerely discharged of all rentes as well against the Lordes of fees thereof as of all other;" *St. of Realm*, iii. 505, 506, 531, 768, 769, etc. It would appear from this that the practice of creating rent-charges on town houses or town land was common in English towns. According to Weber, *Zur Geschichte der Handelsgesellschaften*, 111, it

was in the towns that the practice first grew up: "Es est nun bekannt wie man seiner Zeit . . . den Rentenkauf als ein verschleiertes zinsbares Darlehen mit hypothekarischer Sicherheit hat historisch erklären wollen, und dass diese Auffassung inzwischen als aufgegeben angesehen werden kann. Die Untersuchungen von Arnold und andere haben ergeben, dass der Rentenkauf sich allmählich aus den Leihverhältnisse an Grundeigenthum in den Städten entwickelt hat."

120. Cf. Weber, *Handelsgesellschaften*, 111-114.

121. *Ib.*, 3, seq., 12.

122. The threefold origin of modern practice is clearly stated by Goldschmidt, *u.s.*, 254.

123. *Ib.*, 258.

124. Weber, 18; Goldschmidt, 260.

125. Weber, 19. The following are typical examples: "Ego bonus vasallus maraccius accepi in commendacionem a te wilielmo filardo libras 50 in pannis, has portaro debeo apud messaniam laboratum et ex indo quo voluero, quartam proficui habere debeo et expensas debeo facere per libram;" and again, "Ego Paschalis Tresmezaillas confiteor et recognosco tibi Johanno de Mandolio me habuissio et recepisse a te in comanda 40 libr. regalium coronatorum, implicatas in 1 caricha piperis, etc. . . . cum qua comanda predicta ibo . . . ad lucrandum et negotiandum in viagium Capte . . . ad tuum resegum et ad quartam partem lucri" (Marseilles, 1240); both quoted in Goldschmidt, 262, n. 93.

126. Weber, 22.

127. Goldschmidt, 263.

128. *Ib.*, 260.

129. The argument in the text closely follows that of Weber, 22-25.

130. Goldschmidt, 267, and n. 114.

131. The early history of this form of partnership is investigated in Schmidt, *Handelsgesellschaften*. See also Weber, 44, seq.; Goldschmidt, 272, and n. 131; Parsons, *Principles of Partnership* (Boston, 1889), § 2.

132. Weber, 58.

133. Parsons, § 3.

134. Parsons, *ib.*

135. *Ib.*, and cf. § 26.

136. Schmidt, 90, 91.

137. Abstract in Sharpe, *Wills*, pt. 2, 393. The proviso was added that the trading was to be within the realm of England, and not beyond the sea.

138. Weber, 25.

139. *Memorials of London*, ed. Riley, 378 (1374), 446 (1380).



140. *Fortnightly Review*, Nov. 1881; reprinted in *Essays*, 2nd ed.

141. *Rot. Parl.*, ii. 350. Cf. the whole argument of Cunningham in *English Industry and Commerce*, i. 325, seq. (a reprint of his paper on *City Opinion of Banking* in the *Journal of the Institute of Bankers*, 1887).

142. *Corpus Juris Canonici*, X., lib. iv. tit. 20, c. 7. The conventional interpretation given of this passage in § 17 must be modified in the sense indicated in the text.

142a. This fact, together with the later history of the doctrine of *societas*, would seem to be conclusive as to the importance to be assigned to X., lib. v. tit. 19, cap. 19,—a decretal of Gregory IX. This ran: "Naviganti vel eunti ad nundinas certam mutuan pecunie quantitatē, eo quod suscepit in se periculum recepturus aliquid ultra sortem usurarius est censendus." The argument of Neumann (18) gives strong reason to believe that the true reading is *non est censendus* (in spite of Goldschmidt, 346, n. 52). But in any case this decretal was never adduced until much later times as a prohibition of such arrangements as are described in the text. Indeed they were often made under the patronage of the Church. Thus in 1311 five persons subscribed to form a fund in aid of S. Mary's light at Nottingham, and entrusted it to three of their number. "Convenit inter eos quod C. D. E. haberent predictum argentum in merchandisiis suis, ad commune proficuum predicti luminaris, et quod predicti A. B. audirent in quolibet anno compotum de dicto argento cum lucro."—*Records of Nottingham*, i. 73.

143. *Secunda Secundae*, qu. 78, art. 2. See also Endemann, i. 346, 363, 367.

144. Endemann, i. 346, 347, 364.

145. *Ib.*, i. 344, et frequenter.

146. *Supra*, § 17.

147. Endemann, i. 382, 383.

148. *Ib.*, i. 384, 385.

149. Weber, 109.

150. Endemann, i. 368, 369.

151. *Ib.*, i. 362; cf. 343.

152. As given, for instance, in such a well-known manual as Smith's *Mercantile Law*.

153. The argument here follows in the main Weber, 111–114.

154. See the article, *s.v.*, in McCulloch's *Commercial Dictionary*.

155. Such would seem to be the conclusion from the somewhat confusedly arranged data of Goldschmidt, 349.

156. This is pointed out by Mr. Hendriks, *s.v.* Bottomry, in Palgrave's *Dictionary of Political Economy*.

157. This seems the evident conclusion from Endemann, ii. 322-328.

158. Hendriks, *u.s.*

158a. This seems to be the conclusion to be drawn from Goldschmidt, 348, 349. It is not quite clear how the defect described by Mr. Hendriks could coexist with this rule; but the subject is involved in a controversy (see Goldschmidt, 347, n. 53) into the merits of which it is impossible now to enter. Accordingly, the statements in the text are allowed to remain. Either of the two alleged defects would suffice to justify the dislike which the Church felt for the *fœnus nauticum*.

159. 11 Hen. VII., c. 8; *St.*, ii. 574.

160. *Drei volkswirtschaftliche Denkschriften*, ed. Pauli, 34.

161. *Liber Albus*, trans. Riley, 344.

162. Thus in the case of Ralph Cornwall, which came before the London mayor and aldermen, where the intent was to borrow twelve pounds, the usurer insisted on receiving "an obligation in double the amount . . . in the which the said Ralph, the borrower, "and John Tetterbury, skinner," a surety, "were bound jointly and severally in the whole of such sum;" and then after all Cornwall only received ten pounds.—*Liber Albus*, trans. Riley, 340. What was meant by denying the presence of real hazard or risk in the case of usury is worked out by Mosse in his *Arrangement of Usury* (1595), 55-57: "I am not ignorant what the *usurer* will replice in this behalfe. Why sir (will hee say) whensoever, or howsoever, or to whomsoever I lende, it is evident that I *hazard and adventure* my goods. For, say that I take the borrowers bande or bill, or pawne, or suerties, or promise for mine own securitie: yet it may come to passe, that hee and his suerties may prove banekroute, his and their goods may by some offence bee confiscated and forfeited to the crowne, hee or they may flee the countrie, or keepe the house, that they are not to be gotten: nay evidences may be stolne, lost, brent, caught out of my hand by cousenage, etc. a thousand waies are there, by which notwithstanding mine assurance, I may be defeated of my owne. And therefore it is evident that I *adventure* my goods. Now to this objection of theirs, I answer two manner of waies. First I say, that in this sorte and this respect, every man *adventureth* his goods, even he that hath sufficient pawne in hand, yea even he that keepeth his money fast lockt in his coffers: for they may be burnt, or stolen, or by cousenage conveyed away. . . . I put an example to make the cause plaine. Wee have in England two sortes of *Marchants*, *Marchant Adventurers*, and *Marchant Retaylers*. The *Retayler* cannot but *hazard* much, for he must trust often, sometimes for round summes, sometimes for a great while, sometimes upon the borrowers bare worde, or hande to his booke,

(which assurance no *usurer* will take) and yet no man calleth him a *Marchant Adventurer*, neither is hee assumed into their hall and companie. How much lesso then can an *usurer* bee called an adventurer of his goods, when hee will neither trust, nor leud for long time, nor but upon all sufficient securitie: Secondly, to the plea of the *usurer* touching the *adventuring* of his goods, I answer in this sorte. There is *adventuring* in a double respect, 1. First, *Quoad eventum*. 2. Secondly, *Quoad media*. A man may *adventure as touching the issue: and as touching the meanes*. As touching the *issue*, it is confessed that the *usurer* *adventureth*: and no grainercie, for he cannot possible doo otherwise. Because no man can see the ende of a thing when heo beginneth it. . . . But as touching the *meanes*, the *usurer* worketh so sure, as heo cannot in any reason be said to *adventure*. As for example: it is said in the *Actes of the Apostles*, that *Herod* apprehended *Peter*, and east him into prison, and delivered him to foure quaternions of Souldiers, to bee kept, and bounde him with two yron cheynes, and set watch before the doore of the prison, and about *Peters* lodging, that he should not escape. The extraordinarie providence of God did (indeede) deliver him: but will any wise man say that *Herod* when he had used all these meanes of safetie did *adventure Peters* coming out? Even so, when the *usurer* hath bounde the borrower *with bandes and pawnes as it were with fetters* (for so *Plutarche* speaketh), and when hee hath tyed him as fast, and made him as sure, as his owne head can devise, or lawes will permit: it may bee that one way or other, God by his seeret providence may defeate him: but will any man say, that the *usurer* *adventureth*, or meaneth to *adventure*, or thinketh that hee doth *adventure* the principall? No assuredlie."

163. See Murray, *New English Dictionary*, s.v. *Borrow*, sb. and v.

164. Such devices would seem to have been not uncommon in England. Thus the London ordinance of 1390 laid down that—

"If any man, denizen or foreigner, shall sell any merchandise and retain the same in his possession, or forthwith upon such sale shall buy back the said merchandise, to the loss of the buyer, for the same he shall be punished.

"And if any partners in trade, by covin before made, shall sell goods for the purposes of chevisance, and one of them shall sell the said goods, and the other of them, forthwith upon such sale, shall buy them of him who is so practised upon for a less price than that at which they were at first sold, they shall have the same punishment."—*Liber Albus*, tr. Riley, 345.

In Germany the plan was known as *Kauf auf Wiederkauf*. For various other petty dodges, see Mosse, 62, 63.

165. See n. 162 above.
166. Endemann, i. 156, seq.
167. *Liber Albus*, tr. Riley, 319.
168. *Ib.*, 322.
169. Endemann, i. 298.
170. See Rae, *Country Banker*, 79, seq.; Danson, *Wealth of Households*, § 628.
171. See Murray, *New English Dictionary*, s.v.
172. Endemann, i. 13.
173. Cunningham, i. 325, seq.
174. Endemann, i. 42, 343, 364, *et freq.*
175. *Gesch. des Wuchers*, 25.
176. Böhm-Bawerk, *Capital and Interest*, Eng. trans., 20.
177. Bonar, in Palgrave's *Dict. of P.E.*, s.v. *Canon Law*.
178. *Ib.*
179. Endemann, i. 364; ii. 107.
180. It is the burden of his *Zins und Wucher*.
181. Funk, *Zins*, 39; cf. 37, n. 1.
182. Murray in *New English Dictionary*, and Cannan in Palgrave's *Dict. of P.E.*, s.v. *Capital*.
183. Roman popular usage employed *caput* for the principal of a debt. Knies, *Geld und Credit*, i. 25, points out that this was a figurative expression, pointing to the "head" or "chief matter" as distinguished from the subordinate or connected matter, the interest. It never, therefore, passed into Roman law; for in Roman law there was no such close relation, and two contracts were necessary to secure interest on a loan,—one for the return of the sum lent, and another and independent one for the payment of interest. Accordingly the Roman law retained the term *debitum* or *sors* for the sum lent, and from this source the term *sors* passed into the canon law. *Quid supra sortem* was its usual definition for a usurious demand. In the Middle Ages the term was replaced by *capitale*. This may be derived from the adjective *capitalis* = *primus*, *præcipuus*; though, to judge from Ducange, that adjective was hardly used outside England. But it is inextricably mixed up with the use of the same term for a stock of cattle (in spite of Knies, 26). Thus Mistral, *Provençal Dict.*, gives *capital* and a half-dozen allied forms as both = *bestiaux d'une métairie*, and also = *principal d'une dette*; and *capitalisto* as = *propriétaire des bestiaux*. *Capital* as a substantive appears in France at least as early as 1611, when Cotgrave defines it as "a stock, a man's principal or chief substance," a century before the phrase *capital stock* occurs in English, and it is therefore not impossible that the term is

directly derived from the mediæval use of *capitale* for the principal of a debt.

184. Knies, 27; cf. its use by Becher, in Roscher, *Geschichte*, 285.

185. *Inquiry*, bk. ii. pt. i. ch. 2; orig. ed., ii. 109.

186. *Britain's Commercial Interest explained*, i. 34.

186a. "Capital: Eine Summe Geldes, so weit sie dazu bestimmt ist Gewinn zu bringen, im Gegensatze dieses Gewinnes oder der Interessen; der Hauptstamm, das Hauptgeld, das Hauptgut, der Hauptstuhl, welche Benennungen chedem üblich waren, und es zum Theile noch sind. Daher heisst eine jede Summe Geldes, die man auf Zinsen ausleihet ein Capital. *Ich will ihnen ein Capital aussetzen, wovon sie mit Ehren leben können.*"—Adelung's *Wörterbuch*.

187. Quoted in Knies, *Geld*, 28.

188. *E.g.* in the title of bk. ii.

189. Bk. ii. ch. i.; ed. Rogers, i. 275.

190. *Ib.*, 279.

191. *Ib.*, bk. i. ch. viii.; i. 67.

192. *Principles*, ch. v.; 1st ed., 93.

193. *Ib.*, ch. i.; p. 17.

194. Fawcett, *Manual*, bk. i. ch. ii.

195. For the connection between the teachings of Rodbertus, Marx, and Lassalle on this point, see Knies, *Geld*, 70, seq.

196. *Capital et Travail*, Fr. trans., 200, 201.

197. *Ib.*, 202.

198. This is worked out in Lassalle's *System der erworbenen Rechte*.

199. See the examples in Uhlhorn, *Christian Charity in the Ancient Church*.

200. Funk, *Geschichte*, 2, seq.

201. *Ib.*, 14-17.

202. See Hunter, *Annals of Rural Bengal*.

203. See Eheberg, *Über den gegenwärtigen Stand der Wucherfrage*, in Holtzendorf and Brentano's *Jahrbücher*, 1880. A great mass of material is given in the reports from various districts in Germany collected under the title *Der Wucher auf dem Lande*, and published by the *Verein für Socialpolitik* (1887).

204. Harvey, in *Journal of the Institute of Bankers*, viii. 79.

205. "Es wird nun auch gestattet sein, die Zinsverbote des kanonischen Rechts anders aufzufassen als es gewöhnlich geschieht. Denn lange Zeit hat man sie für unbegreiflich gehalten oder Nichts als eine lähmende Fessel des Verkehrs darin gefunden. Sehen wir der Sache auf den Grund, so erscheinen sie nur als der rechtliche Ausdruck wirth-

schaftliche Zustände. Sie sprechen das aus was sich von selbst verstand, dass das Geld noch nicht die Eigenschaft von Capital habe, und darum keinen Zins bringen könne."—Arnold, *Zur Geschichte des Eigenthums*, 92; quoted by Funk, *Zins*, 55 n.

206. Cf. Weber, 111, seq.

207. Recent arguments in defence of the usury prohibition are to some extent anticipated by Sir James Stewart, *Inquiry into the Principles of P.E.*, ii. 113. See also his whole argument from 109, seq.

208. "Es ist der Fall möglich, dass eine Bestimmung sich fälschlich als Ausnahme gibt, die es in der That nicht ist, sich vielmehr durch eine richtigere Fassung des Princip's bescitigen lässt. Ja es ist sogar nicht unmöglich, dass ein Rechtssatz *historisch* d. h. dem *bisherigen* Recht gegenüber eine *wirkliche* Ausnahme begründet, während doch im Grunde mit dieser Ausnahme nun das bisherige Princip modificirt worden ist, so dass es also nur einer andern Fassung desselben bedarf, um den Gegensatz der Regel und Ausnahme darin aufgehen zu lassen. Die Ausnahme ist häufig nur die Form in der das Princip selbst sich verjüngt."—Ihering, *Geist des römischen Rechts*, ii. 338; quoted by Funk, *Zins*, 102 n.

209. Funk, *Geschichte*, 58.

210. This is the date given by Brunet's *Manuel*.

211. 1486 Chivasso in Piedmont, 1487 Venice, 1488 Nuremberg, 1489 Venice, 1491 Strassburg, 1495 Venice, 1498 Nuremberg, 1499 Venice, 1513 Strassburg, 1515 Strassburg.

212. IV. dist. 15, qu. 11, dub. 10; according to Funk, *Geschichte*, 58, n. 3.

213. Wiedemann, *Eck* (1865), 33.

214. *Ib.*, 54, and n. 3.

215. *Ib.*, n. 5.

216. A very entertaining account of his journey,—with, unfortunately, but scanty information about the disputation itself,—was given by Eck in his *Epistola ad Chunradum Abbatem*, printed together with other papers in *Orationes tres . . . non inelegantes* (1515) [in the Bodleian, 4to, R. 56, Art.]. What is substantially a translation is given in Wiedemann, 55, seq.

217. "Et quoniam jureconsulti perpetua lite cum theologis decertant, uter rectius de usura judicet, neutrum offendere consilium fuit, sed et ad venerandum jureconsultorum collegium scripsi, eos plurimum rogans quo neminem hanc disputationem equo ferrent animo."

218. "Hieronymus Gaddio Minoritanæ familiæ regens . . . Joannes quoque Angelus Brixiensis Carmelita doctor theologiæ. . . Hi duo schemate nostro diligentissime examinato, una cum Joanne Fossano



Theologiæ magistro et Joanne Croto de Monteferrato juris pontificii ordinario, et mirificæ memoriæ et eruditionis viro ipsum approbarunt, ac in hujus fidem syngraphis suis se subscripserunt."

219. "... de usura, quam admittit theologia, sicut Bononiæ disputatum, et per magistros nostros probatum," qu. in Schmoller, *Ansichten*, 127.

220. An excellent life of Major, by H. T. W. Mackay, is prefixed to the translation of his *History of Greater Britain*, issued by the Scottish History Society, 1892. For another estimate of his position as a theologian, see the article by T. G. Law, in *The Scottish Review* for April, 1892.

221. "Germanus quidam doctor Theologus eruditissimus" [called in the previous *quaestio* "doctissimus Joannes Eckius gymnasii Ingolstadtensis procancellarius optime meritis"] . . . "quamdam questionem super quodam contractu ad facultatem nostram transmisit ut ipsum vel reprobarct vel approbarct. Sed quia ob varia impedimenta nostræ facultatis doctores super hoc non fuerunt congregati, nihil est ab eadem sacra facultate definitum. Dicam cum benigna permissione seu supportatione opinionem meam in hac parte: prius tamen casum proponendo, qui est iste. . . . Vel casus sic clarius proponitur ut ipsum proponit Joannes Crotus de monte ferrato, juris pontificii lector ordinarius Bononiæ. Nam Bononiæ presente prefato Croto Joannes Eckius hanc questionem in publico disputavit consensu; quare veresimile est eos in casus positione convenire. Sic apud Joannem Crotum figurant casus; ut scripto in hanc urbem misit Joannes Eckius. Titius habens certam summam pecuniæ negotiationis expers: in illa se exercere non audet; ne ex imperitia suum patrimonium diminuatur: nec reperit annuos census prediales sibi idoneos qui sunt vendibiles. Ideo providus et circumspectus circa substantiæ suæ conservationem dictam quantitatem committit Gaio honesto et probò mercatori suæ in industria plurimum solito lucrari: quem rogat ut ex eo negotietur. Gaius autem ex certis causis suum animum inveniendis nolens eum acceptaro ad lucrum et ad damnum, paciscatur cum Titio ut capitali salvo accipiat pro portione lucri sui ejus quantitas incerta est florenos quinque pro singulis centum. Fit etiam conventio ut utrique contrahentium liberum sit hunc societatis contractum dissolvere cum placuerit: dummodo unus ab altero certior super hoc fiat in quarta anni. Super hoc casu contentio est: an iste contractus sit equus et licitus: ita ut Titius ad restitutionem illorum quinque non teneatur in foro animæ.

"Super hac quaestione duas ponam conclusiones. Prior est: Contractus iste non est usurarius sed licitus. . . . Iste contractus æquivaleret copulativæ



ex tribus contractibus licitis sibi mutuo non adversis conflatae : ergo iste contractus est licitus . . . quia equivaleret tribus contractibus quorum unus est societas ; secundus est contractus assecurationis ; et tertius est venditio lucri incerti pro lucro certo : quorum quilibet est licitus.

"Secunda conclusio. Praedictus contractus est vera societas et licita."  
—*In IV. Sententiarum*, Distinctio xv. Quaestio 49.

222. Funk, *Geschichte*, 59.

223. On Navarrus, see Funk, *Geschichte*, 58, and Endemann.

224. Funk, *Gesch.*, 59, and n. 7 ; Endemann, i. 384-387.

225. Funk, *Zins und Wucher*, 85 and n.

226. Funk, *Gesch.*, 60.

227. Funk, *Gesch.*, 48-51, gives the best account ; which may be supplemented from the somewhat tedious exposition of Endemann, i. 431, seq.

228. See on Laurentius, Endemann, i. 32.

229. On the decree of the *Poenitentiaria* of 1831, see Funk, *Gesch.*, 69, 70 ; *Z. u. W.*, 136, seq.

230. Funk, *Gesch.*, 51-53 ; Endemann, i. 460, seq.

231. See Wolff on *Co-operative Credit-Banking in Germany* in the *Economic Review*, ii. 460. Mr. Wolff says, "The Loan-banks are turning the usurers, vanquished and defeated, out of the villages in shoals." The petty usurer, as before noticed, does not thrive in English country districts ; but he is by no means unknown in the great cities. Mazzini thus describes his experience in London in 1837 : "I dragged myself from one to another of those loan societies which drain the poor man of the last drop of blood, and often rob him of the last remnant of shame and dignity, by exacting from him forty or fifty per cent. upon a few pounds, which he is compelled to pay back in weekly payments, at certain fixed hours, in offices held in public-houses or gin and beer shops, among crowds of the drunken and dissolute." Few large workshops to-day in London are without their usurer, or "Shylock," as he is called. A penny per week on each shilling is the usual rate of interest.

232. Endemann, ii. 113.

233. For Summenhart, see Roscher, *Gesch.*, 22.

234. Funk, *Gesch.*, 56.

235. On these three writers, see Endemann, i. 48-50.

236. *Ib.*, ii. 117.

237. *Ib.*, ii. 119.

238. *Ib.*, ii. 266.

239. *Ib.*, i. 47.

240. "Tantum operatur consensus partium quantum mora ;" *ib.*, ii. 265.

241. *Ib.*, i. 54; ii. 264.

242. Cf. the accounts given of him by Endemann and Böhm-Bawerk.

243. Funk, *Zins*, 170, seq.

244. Endemann, ii. 315, seq.

245. For an account of this episode, see Endemann, ii. 153, seq.; and cf. Funk, *Gesch.*, 62.

246. "Titius pecuniam habens eandem Sempronio cujusvis conditionis homini ad nullum certum usum, sed pro arbitrio debitoris distrahendum ea lege tradit, ut Titius ex pacto et civili obligatione, quae aliquando in iisdem literis, interdum in aliis adjicitur, jus habeat, quamdiu eadem pecunia apud Sempronium relinquitur, accipiendi quotannis ab eodem Sempronio quinque florenos pro singulis centenariis et postea totam quoque summam capitalem."—Endemann, ii. 154.

247. The *titulus legis civilis*, or justification on the ground that the secular law permitted payment for the use of money, of which Funk speaks, *Gesch.*, 62, seems to have been but little recognized until a later period.

248. Schmoller, *Ansichten*, 107, 109 (sermon of 1519), 113 (pamphlet of 1540).

249. *Ib.*, 108.

250. *Ib.*, 110, 111.

251. *Ib.*, 105, 106.

252. *Ib.*, 118; for an explanation of *fungibles*, see *supra*, § 17.

253. Schmoller, *Ansichten*, 119.

254. *Ib.*, 120.

255. The letter itself, of which I cannot ascertain the date, will be found in extenso in *Joannis Calvini Epistolae et Responsa* (ed. Beza; Geneva, 1575), p. 355. Cf. the account of it in Böhm-Bawerk, *Capital and Interest*, trans. Smart, 28.

256. Text A. Passus V. ll. 107, seq. The quotation is from S. Augustino.

257. Myre's *Instructions* (E.E.T.S.), 22.

258. *Ib.*, 39.

259. *Liber Albus*, trans. Riley, 318, seq.

260. *Ib.*, 344.

261. *Ib.*, 273.

262. This will be found at length in the new ed. of Cunningham, *Engl. Ind. and Commerce*, i. 325.

263. 3 Hen. VII., c. 5; *St.*, ii. 514.

264. 11 Hen. VII., c. 8; *St.*, ii. 574.

265. 37 Hen. VIII., c. 9; *St.*, iii. 996.  
 266. *Select Works of Crowley*, 172.  
 267. 5 & 6 Edw. VI., c. 20; *St.*, iv. 155.  
 268. 1571. 13 Eliz. c. 8; *St.*, iv. 542. The second clause voids contracts above 10 per cent., and the fourth visits the lender who receives more with the penalty of losing all the interest. This fourth clause is, however, rendered unintelligible in the Record edition by the insertion of an unnecessary *not*, as may be seen on comparing it with the statute of 1623-4, 21 Jac. I., c. 17, in *St.*, iv. 1223.  
 269. See the account of him in Allibone.  
 270. Ed. 1584, *fos.* 194, 195, 199b.  
 271. *Fo.* 60b., 72b.  
 272. *Fo.* 59b.  
 273. *Fo.* 173.  
 274. *Fo.* 160.  
 275. *Fo.* 169.  
 276. Published by the Parker Society in vol. ii. of *Jewel's Works*, 851, seq.  
 277. *Ib.*, 856, 857.  
 278. *Ib.*, 858.  
 279. *Ib.*  
 280. *Advertisement* to the first volume of the *Decades*, ed. Parker Soc., p. viii.  
 281. The *Third Decade* (vol. ii. of the Parker ed.), 41.  
 282. *Ib.*, 42.  
 283. *Arraignment*, 29.

[NOTE.—A convenient introduction to modern discussion and legislation touching usury may now be found in Dr. Hermann Blodig, jun.'s, essay, *Der Wucher und seine Gesetzgebung* (Vienna, 1892), which gives abundant bibliographical indications. For a further discussion of the conception of Capital as a "historical category," reference may be had to Professor Cunningham's *Use and Abuse of Money*, chap. ii. (1891). Both these works reached the writer after this chapter was in type.]

# INDEX.

Aberdeen, 162, 173  
 Abingdon, abbot of, 276  
 Accursius, 399  
 Achley, Roger, 34  
 Adelung's dictionary, 430  
 Adventures, Merchant, 51 ; society  
     of, 216  
 Ælfrie, 309  
*Aemter*, 140, 141  
 Agriculture, Board of, 260  
     —, changes in, 222, 261 ; stages  
     in, 262  
 Albert V. of Bavaria, 454  
*Aleconners*, 30  
*Aletasters*, 60  
 Alexander of Hales, 399  
 Aliens, 13, seq.  
 Almsgiving, 338, 340 ; theory of,  
     315  
 Almshouses, 364 ; of the crafts, 82,  
     325  
 Alva, 218, 239  
*Amercements*, 265  
 Anchorites, 320  
*Anciens*, 132  
 Angelus de Clavasio, 441, 446  
 Anne, Queen, 202  
*Anniversary*, 145, 149  
 Antonine, S., of Florence, 449  
 Antwerp, 217  
 Apprentices, 27, 45 ; limitation of  
     number, 91, seq. ; statute of, 86,  
     94, 114, 134, 166  
 Apprenticeship, 84, seq., 119  
 Aquinas, S. Thomas, qu. 391 ; 392,  
     399 ; qu. 400, 419 ; 448

Architecture, of towns, 51 ; of  
     country houses, 54  
 Armourers, company of, 140, 163 ;  
     yeomanry of, 120  
 Armstrong, Clement, qu. 216 ; 255 ;  
     qu. 299, 425  
 Arnold, Wilhelm, qu. 437, 483  
 Arras, 239  
*Art*, 70, 164  
*Art and Science* of Political Eco-  
     nomy, 379  
 Artevelde, James van, 197  
*Arti Maggiori*, 134  
 Assessment for poor-rate, 360  
*Assistants, Court of*, 132  
*Assize* of bread, ale, *etc.*, 30, 31, 33 ;  
     of cloth, 193  
 Atlantic trade, 50  
 Aubrey, qu. 368  
 Augsburg, 33, 346  
 Augustine, S., of Canterbury, 308  
     —, of Hippo, 389  
*Aulnage*, 193, 196  
*Aulnager*, 193 ; of worsteds, 205, 223  
 Austin Friars, 238  
 Austria, usury in, 405, 436  
 Avarice, 388, 460  
 Axbridge, 189  
 Azorius, 452  
 Bachelors' company, 113  
*Backband*, 173  
*Badgers*, 47  
 Bakers, 34, 35, 192  
*Balance, common*, 20  
 Banks, co-operative, 450

- Bargains, common*, 39  
 Barley, from Ireland, 39  
 Bartholomew, S., fair of, 214; hospital of, 362, 363  
 Basel, 125, 132, 134, 407  
 Basil, S., 315  
 Bavaria, 281, 454  
*Bays*, 239, 240  
*Beam*, small and great, 20  
 Beacon, qu. 290  
*Bedesmen*, 318  
 Bedfordshire, 287  
 Beggars, 333, seq., 366  
 Begging, prohibition of, 357, seq.  
 Benedictines, 312  
 Bentham, 439  
 Bequests, 329  
 Berkshire, 232, 287  
 Bernardine, S., of Siena, 400  
 Bethlehem hospital, 362  
 Biel, Gabriel, 382, 441, 446  
 Bishop's Lynn, 206  
 Blackwell Hall, 19, 207, 214, seq., 231  
 Black Death, 104, 222, 264, 277, 333, 338  
 Bladesmiths, 84, 117, 163  
*Blanket*, 247  
 Blanket, Thomas, 203, 246  
 Blodig, Dr., 488  
 Blomefield, qu. 248  
 Bodin, qu. 57  
*Bodmerei*, 421  
 Bologna, university of, 442, 444  
 Bondmen, excluded from freedom of cities, 89  
*Borrow*, to, 425  
 Boston, 22  
*Bottomry*, 421, seq.  
 Box, yeomen's, 118; journeymen's, 122; 180  
 Brady, 5  
 Brabant, weavers of, 196, 200  
 Bracton, 295  
 Brandenburg, 455  
 Bread, 192  
 Brentano, Prof., criticised 94, seq.; 102; qu. 103, 175; 182  
 Breslau, 33, 316  
 Brewers' company, 128, 130  
 Brewhouse of London, 36  
 Brian, C. J., 278  
 Bridewell, 362, 363  
 Bridge House, 36, 61  
*Bridgemasters*, 35  
 Bridport, 183  
 Bristol, 7, 11, 22, 26, 37, 42, 47, 50, 108, 123, 132, 136, 156, 202, 223  
 Britton, qu. 277  
 Broad-cloths, 231  
 Brokers, 463, 464  
 Brown, Sir Stephen, 33  
*Bruderschaften*, 141  
 Bruges, 195, 217, 343  
 Buchenberger, 288  
 Bücher, Karl, 4  
 Buckinghamshire, 287  
 Bucklemakers, 75  
 Bullinger, qu. 469  
 Burgage tenure, 23  
 Burgundy, John, duke of, 217  
 Burn, J. S., 191  
 Burnet, qu. 148  
 Burton, abbot of, 276  
 Bury S. Edmund's, 330  
 Butchers, 128  
 Butchers' house, 19  
 Cajetan, Cardinal, 450  
 Calais, 22, 53  
 Calixtus III., 410  
 Calvin, 458, seq.  
 Calvinist divines, 468  
*Cambia sicca*, 426  
 Cambridge, 12, 64  
 Cambridgeshire, 46, 287  
 Camden, qu. 241  
 Candles, Paris, 79  
 Canonist economics, 379, seq.  
 Canterbury, 240  
 Caorsines, 405  
*Capital*, 427, seq.  
*Capitale*, 482  
*Capitalist*, 430  
*Capital stock*, 429  
 Cappers, 95, 157  
*Caput*, 482

- Carfaxes*, 19  
 Carlisle, 60  
 Carpenters' company, 83, 150 ;  
     fellowship of young men, 120  
*Carsay*, 239  
 Cassel, battle of, 195  
 Categories, economic, 100  
 Catton, 206  
*Census*, 406, seq., 452, seq., 457  
     — *constitutivus* and *reservativus*,  
         408, 409  
     — *realis* and *personalis*, 452, 457  
 Chamberlains of towns, 27, 35, 42,  
     92  
 Chantries, 42, 135  
 Charity, private, 328, seq.  
 Charles the Great, 308  
 Charles V., 33  
 Charters to towns, 44 ; to crafts,  
     75  
 Chaucer, qu. 126, 295, 310, 389,  
     390, 392  
*Chef d'œuvre*, 105  
 Chester, 17, 22, 39, 156  
*Chevisance*, 426, 427, 481  
 Chichester, 22  
 Children, education of, 345, 363  
 Christ's Hospital, 363  
 Church and Usury, 396, seq.  
     —, Eastern, 435  
*Church ales*, 311  
     — *house*, 311  
 Cirencester, 12, 230  
 Civil Law, 382, 384  
 Clode, Mr., 107 ; qu. 147 ; 172 ;  
     qu. 179, 185, 186  
 Cloth, exportation of, 216, 237 ;  
     duties upon, 204  
     —, importation of, 194  
     —, manufacture, 29, 71, 191, seq.,  
         354 ; manufacturers, 16  
 Cloth-finishers, 210, 211  
 Clothiers, 134, 222, seq., 228 ;  
     Master-clothiers, 227, 252  
 Clothing contracts, 114  
*Clothing, in and out of the*, 131, 192  
 Clothmakers, 94, 222, seq.  
 Clothworkers, 251 ; their company,  
     133 ; yeomanry of, 120  
 Cobbett, 305 ; qu. 367  
 Cobblers, 24  
*Coquware*, 223  
 Coke, Sir Edward, 274, 278, 282 ;  
     qu. 294, 295  
 Colchester, 11, 63, 240  
*Collegantia*, 414  
*Commenda*, 412, seq.  
*Commendatarius*, 413  
*Commendator*, 413  
 Commissions on Enclosures (1517),  
     279 ; (1548), 281  
*Commonage*, rights of, 270  
*Common day*, 56  
*Common dinner*, 119  
 Common, rights of, in towns, 40  
 Commons, 270  
*Compagnons*, 107  
 Companies, 23 ; greater, 26 ; rela-  
     tion between smaller and greater,  
     45 ; distinction between, 133  
*Company*, history of the word, 415  
     —, use of the term, 70  
 Competition, limited by crafts, 76  
*Compositions*, 42, 45, 80, 156, 157,  
     181  
*Concept of English Policy*, 260  
*Confréries*, 107  
*Consumptibles*, 395  
*Contract, Triple*, 440, 455  
*Contractus Trius*, 440, 446  
*Convener Court*, 173  
*Convertible husbandry*, 262  
 Coopers, of Southampton, 78  
 Copyholds, 284  
 Cordiners, of Edinburgh, 140  
 Cordwainers, 110  
 Corn, public provision of, 33, seq.  
*Corn-renters*, 35  
 Cornwall, 235, 288  
 Cornwall, Ralph, 480  
*Corporation*, 70  
 Corpus Christi, representations, 98 ;  
     guild of, 156 ; at York, 326  
*Corps de Métier*, 134  
 Correction, houses of, 365, 366  
 Cottagers, 267, 273, 374  
*Cottons*, 231  
*Court of Assistants*, 132

- Coventry, 11, 17, 45, 47, 80, 108,  
123, 124, 147, 148, 155, 178, 213;  
frieze of, 223
- Corins*, 111
- Crafts, 23, 68, seq.: relation to  
municipality, 24, seq.; union of,  
161, seq.; relief to poor by,  
324
- Craftsman, position of, 100
- Credit, agricultural, 436
- Crotus, Joannes, 443, 444
- Crowley, qu. 49, 65, 290, 297, 322,  
331, 386, 390, 465
- Cumberland, 234, 235, 255, 288
- Cunningham, Professor, qu. 55;  
56, 189, 244, 257, 473, 488
- Customary tenants, 272, seq.
- Customs upon cloth, 204; on general  
merchandise, 226
- Damnum emergens*, 399, 457, 458
- Danby, C.J., 278
- Dantzig, 33, 36, 37
- Dare ad proficuum maris*, 420
- Deacons*, 171
- Death, Black, 104
- Debate between the Heralds*, 254
- Debt, enforcement of payment,  
398
- Decayed houses, 52
- Deceit, forms of, 73
- Demesne, ancient*, 277
- Demesnes, changes in, 267
- Derbyshire, 287
- Devonshire, 46, 288
- Dirige*, 330
- Disendowment of religion in the  
misteries, 158
- Distribution*, canonist doctrine of,  
393
- Division of labour, geographical,  
47, 192
- Dobbs, Sir Richard, 362
- Dolcs, 331, 339, 357
- Döllinger, 332
- Domesday, exemplifications of, 266
- Domestic system*, 43, 71, 166, 193;  
described, 219; 223, seq.; 253,  
354
- Dominicans, 443, 448, 450
- Dorset, 288
- Douce, F., 255
- Dowry, 419
- Drapers, 24, 51, 77, 123, 134, 210,  
seq.; of Norwich, 156; of Wal-  
lingford, 162
- Drapers' company, 80, 113, 120, 131,  
133, 140, 212; their ell, 83
- Drapers' house, or Drapery, 19
- Drapery, the new*, 193, 237
- Dublin, 39
- Dugdale, qu. 178
- Dumoulin, 453, 454
- Durham, county of, 235, 287
- "Dutch," 238
- Duties on exports, 226
- Eastern Church, 435
- Eastern counties, 227
- Eastland company, 36
- Eck, 341, 441, seq., 444, 484
- Economists, English, 387; German,  
380
- Eden, Sir F., 306, 372
- Edinburgh, 162, 164, 171, 376
- Edward I., 13, 44, 436
- Edward II., 76
- Edward III., 13, 72, 195, 245, 462
- Edward IV., 464
- Edward VI., 81, 238, 362, 465;  
legislation of, 139, 154, 232
- Egbert, Archbishop, 308
- Ehrle, Franz, 305, 374
- Elizabeth, industrial legislation of,  
165, seq.; poor law, 350
- Embezzling of material, 229
- Enclosure Acts, 261
- Enclosures, 261, 267, seq.; objects  
and means of the earlier and  
later, 286
- Endemann, 420, 421, 427; criticised,  
377; qu. 471
- Entrance-fees, 105
- Epistolæ obscurorum virorum*, 443
- Essay*, 105
- Essex, 231, 235, 286
- Ethelred, 303
- Exchange, bills of, 426



- Exeter, 22, 42, 91, 106, 107, 217  
*Expenditure*, productive and consumptive, 435  
 Export, manufacture for, 193  
 Exportation of cloth, 216; of wool, 216; of wool prohibited, 194; of woollen cloths, amount of, 225  
 Exports and imports, amount of, 204  
 Eyre, Sir Simon, 34
- Factory system* described, 219, 253  
 Fagniez, 249  
 Fairs, 13, 461; cloth, 214  
 Fair-trade, 15  
 False-work, 164  
*Family system* of industry described, 219  
 Farmers, 267, 291  
 Fastolf, Sir John, 136  
 Fathers, the, 307, 391, 396, 434  
 Fawcett, Professor, qu. 474  
 Fecs in the crafts, 90, 105  
*Fields*, common or open, 269, 272, 285  
*Fifteenth and tenth*, 51  
 Fines upon admittance, 283  
*Firmarii*, 267  
*Firms*, 268  
 Fishmongers, 128  
 Fishmongers' company, 133, 153; yeomanry of, 120  
 Fitzherbert, qu. 269, 272, 284; 291; qu. 292  
 Flanders, 193  
 Flemings, 200  
*Flesh-conners*, 30  
 Florence, 134, 447  
*Fœnus nauticum*, 423  
 Fordwick, 63  
*Foreign buying and selling*, 56, 240  
*Foreigners*, 12, 227  
*Foreigns*, 113  
 Foundations, 318  
 Founders, 92, 188; yeomanry of, 120  
 Foxwell, Professor, qu. 473  
*Franc* of Bruges, 244  
 France, 107, 141, 142, 209, 211, 217, 237, 319; apprenticeship in, 87, 92; journeymen in, 124; poor law, 350, 360, 422. See also Paris  
 Franchise, 12; parliamentary, 131  
 Franciscans, the, 443, 448, 449  
 Frankfurt, 33  
*Fraternities*, religious, 74, 76, 112  
 Freedom of towns and cities, regulations as to, 76, 89  
 Freehold, enclosure of, 270  
*Freemen*, 12  
 Free tenure, 266  
 Frieze of Coventry, 223  
 Froude, Mr. J. A., 186, 297  
 Fuggers, the, 442  
 Fuller, Th., 34, 229, 327; qu. 241, 258, 312, 322  
 Fullers, 94; of Lincoln, 140, 171  
 Fullers' company, 212  
*Fungibles*, 395  
 Funk, F. X., 377, 428; qu. 476  
 Fustel de Coulanges, 271  
*Fustians*, 238
- Garbelling* of spices, 83  
*Garners* of London, 35, 36  
 Gascony, wine trade with, 40  
 Geering, 125  
 Genoa, 447  
 Gepoese trade, 413, 419  
 Germany, 450; towns of, 23, 29, 33; guilds of, 82, 141, 164; apprenticeship in, 86; journeymen's societies in, 112, 124; eviction of peasants in, 280, 281; hospitals of, 319; poor relief in, 342, 350; rent-charges in, 397, 405, 406, 407, 408, 454; usury in, 405; *bodmerei* in, 421. See also Augsburg, Dantzic, Mecklenburg, Nürnberg, Rhine, Strassburg  
*Gesellenverlände*, 106  
*Gesellschaft, offene*, 415  
 Ghent, 195, 197  
 Gide, Professor, qu. 474  
 Gierke, Professor, 68, 141; qu. 177  
*Gig-mills*, 232, 251  
*Gild*, earlier and later use of the term, 70, 137

- Gild merchant, 12  
*Gild system*, 43, 69; consolidation and extension of, 70; modification of, 158; characterized, 166, seq.; described, 219  
 Gilds, religious and social, 136, 138, 324  
   — of weavers, 193  
 Girdlers, 164  
 Glanvill, 276  
 Gloucester, 37  
 Gloucestershire, 235, 287  
 Glovers, of Hull, 121; of Shrewsbury, 157; of London, 163  
 Godalming, 235  
*Godsman*, 171  
*Gogroynes*, 241  
 Goldschmidt, Professor, 378, 478  
 Goldsmiths, 134; of Shrewsbury, 163  
 Goldsmiths' company, 133  
 Gore, Mr. Charles, qu. 473  
 Gray's case, 295  
 Graziers, 223  
 Gregory IX., 479  
 Gregory XIII., 452, 455  
 Grocers, 24, 51, 216  
 Grocers' company, 21, 80, 83, 128, 133  
 Gross, Professor, 5, 63, 67  
 Guildford, cloths of, 223  
  
 Haberdashers' company, 133, 140, 157  
 Hales, John, 260, 268, 291  
 Halifax, 255  
 Hall, Edward, qu. 231  
 Hall, Mr. Hubert, qu. 247  
 Hallam, 5; qu. 369  
*Hallmoots* of bakers, 33  
 Halls of the crafts, 82  
 Hammermen, 164  
 Hampshire, 232, 288  
*Handicraft system*, 251  
 Hanse, Teutonic, 36, 417  
 Hanse of London, 209  
 Hanssen, Professor, qu. 297  
 Harrison, William, qu. 88, 353  
 Harvests, bad, 355  
  
 Hasbach, Professor, 374  
 Hatters, 95; of London, 157  
 Held, Adolf, 191  
 Henricus de Hassia, 477  
 Henry II., 44  
   — III., 21  
   — IV., 130  
   — VI., 17  
   — VII., 126, 218, 356, 461  
   — VIII., 52, 145, 282  
 Herbert, William, 66, 126, 129, 150, 182, 188, 230; qu. 248  
 Herdman, common, 41  
 Herefordshire, 287  
*Herrenzünfte*, 134  
 Hertfordshire, 287  
 Historical category, 429, 434  
 History, economic, xi  
   —, institutional, 107  
*Hobbyhorse*, 311  
 Holinshed, 362; qu. 363  
 Holy Ghost, order of the, 319  
 Holy Trinity, gilds of, at Worcester, 143; at Lynn, 149  
 Holstein, 281  
 Hospitals, 318, seq., 346, 362, 364  
*Hosts*, 16  
*Householders*, 130  
 Houses of husbandry, 280, 282  
*Hucksters*, 20, 31  
 Hull, 63, 217; weavers of, 121, 156; glovers of, 121  
 Hüllmann, 5  
 Humanists, 341  
 Huntingdonshire, 287  
 Hussites, 410  
  
 Ihering, Professor, 438; qu. 484  
 Imbroderers, 134  
 Immigration of artisans, the first, 193; second, 237  
 Importation of woollen cloth and other articles prohibited, 83  
 Impotent poor, 194; provision for, 359  
*Incoming*, 117  
 Incorporation of crafts, 80, 158, 162  
 Indentures of apprenticeship, 86  
 India, 436

Individualism, 10, 49  
 Industry, appearance of, 99; control of, 23; organization of, 29; stages of, 43, 107; systems of, 69, 166; domestic system of, described, 219  
 Ingolstadt, 442  
 Innes, Cosmo, 4  
 Innocent III., 419  
 Inquest of 1517, 281  
 Institutional history, 107  
 Insurance against fire, 53  
*Intercursus magnus*, 218  
*Interest*, 451, 455; theory of, 397, seq.  
 Interest, pursuit of by towns, 10  
 Investment, 401, 424, 435, 458  
 Ipswich, 30, 42, 62, 155, 217, 360, 364  
 Ireland, imports from, 39  
 Irish Society, the, 133  
 Iron, 39  
 Ironmongers, 134  
 Ironmongers' company, 113, 133; yeomanry of, 120  
 Italians, 227  
 Italy, 217, 314, 339, 412, 422, 447, 450  
 James I., 81  
 Jastrow, Professor, 4, 55  
 Jesuit moralists, 447  
 Jewel, Bishop, qu. 468  
 Jews, 426  
 Joint-stock company, 412  
 Journeymen, 98, seq.; their wages, 106; societies of, 106, seq.; 119; their box, 122  
 Justices, the, and poor relief, 360  
 Justinian, 435  
*Kauf auf Wiederkauf*, 481  
 Kempe, John, 196  
 Kendal cloth, 223  
 Kent, 231, 235, 287  
*Kersies*, 224, 230, 231  
*King's beam*, 21  
*King's wheat*, 36  
 Kirkmaster, 171

Knies, Karl, qu. 431, 482, 483  
 Knighton, qu. 373  
 Labour, in canonist theory, 393  
 Labour-class, appearance of, 101  
*Labourers, Statutes of*, 265, 332, seq., 385  
 Lamond, Miss, 260  
 Lambert, Mr. J. M., 67  
 Lancashire, 235, 288  
 Laneastrian kings, 9, 15  
 Langenstein, 391, 409, 477  
 Lassalle, Ferdinand, 379, 394; qu. 429; 433; qu. 475  
 Lateran Council of 1515, 451  
 Latimer, 263  
 Laurentius de Rudolfs, 448  
 Law merchant, 416  
*Law, taking the*, 28, 161  
 Leadam, Mr., 259, 296  
 Leadenhall, 19, 21, 34, 36  
 Leases, 283, seq.  
 Leathersellers' company, 83, 84, 92, 133, 163  
 Leeds, 253  
 Legislation, 8, 9  
 Leicester, Earl of, 364  
 Leland, John, 230, 257, 260  
 Leslie, Cliffe, 418  
 Lessius, 452  
 Levasseur, Professor, 107, 141  
 Lever, qu. 290, 291, 293, 356  
*Libell of English Policy*, qu. 17, 250  
 Licenses to beg, 361  
 Life tenure, 275  
 Lights, maintenance of, 138  
 Lime-kiln, 63  
 Lincoln, 11, 45, 140, 171  
 Lincolnshire, 287  
 Linen manufacture, 71  
 List, Friedrich, 195  
 Littleton, qu. 278  
 Liveries, wearing of, 108, 109, 126, seq.  
 Liverpool, 39  
*Livery*, the, 113, 125, seq.  
 Livery companies, 26  
*Liverymen*, 131  
 Loan, defined, 419, 454

- London, 11, 14, 16, 21, 26, 27, 28, 33, 42, 45, 47, 59, 74, 75, 80, 82, 85, 89, 103, 107, 153, 175, 217, 233, 240, 335, 418, 425, 426, 462; provision of corn in, 33, seq.; history of crafts in, 76, seq.; custom of, 86; provision for poor in, 364, seq.  
*London Lickpenny*, 213  
 Looms, broad, 201; engrossing of, 233, 236  
 Loughborough, qu. 283  
 Louis XI., 319  
 Low Countries, 193, 195  
 Lübeck, 407  
*Lucrum Cessans*, 399, 457, 458  
 Luther, on poor relief, qu. 342; on interest, qu. 400; on usury, 456, 457  
 Luton, 183  
 Lydd, 59, 63  
 Lydgate, qu. 213  
 Lyndwood, 472  
 Lynn, 11, 80, 147, 148  
 Madox, qu. 57, 246  
 Magdeburg, 346  
 Magistracy, municipal, 7  
 Maine, Sir Henry, 270  
 Major, John, qu. 341, 443, seq.; 446, 452; qu. 455  
 Malmesbury, abbey of, 230  
 Manchester, 47  
 Manorial system, 264, 280  
 Manufactures, 6  
 Marshalsea, the, 320  
 Market-days, 13  
 Markets, 19; rules of, 20  
 Marshall, Professor, qu. 475  
 Marshall, William, 260  
 Martin V., 407, 410  
 Mary, Queen, legislation of, 232, 238  
 Masses, provision of, 138  
 Master-clothiers, 227  
*Masters, company of*, 122  
*Masterstick*, 105  
 Matthew Paris, 405  
 Maurer, Georg von, 23, 164  
 Mayor, dignity and authority of, 7, 21, 26, seq.; not to deal in victuals, 30; his "price," 31; guardian of orphans, 42; patron of chantries, 42  
 —of the staple, 22  
 Mecklenburg, 281, 455  
*Meisterstück*, 105  
 Melancthon, 453, 457  
 Mercantile law, 383  
 Mercantile system, 11, 381  
 Mercers, 24, 134, 216; of Shrewsbury, 90, 163  
 Mercers, company of, 80, 133, 140  
 Mercers' house, 19  
 Merchants, position in town life, 24; appearance of an English class, 209  
*Merchants*, 162  
*Merton, statute of*, 271  
*Mickleton jury*, 41  
 Middle-class, rise of the, 168  
 Middlesex, 287  
 Milan, Synod of, 446  
 Mills, town, 32, 40, 62; of London, 36  
*Mind, year's and month's*, 330  
 Misselden, 204  
*Misteries*, 23, 24, 70. See also Crafts and Gilds  
*Mockadoes*, 239, 240  
 Molina, 452  
 Molinæus, 453, 454, 468  
 Monasteries, relief to poor by, 312, seq.; their dissolution, 316, seq.  
 Money, theory of, 395  
*Money-economy*, 395  
 Monopoly of trade, 12  
*Mons*, 448  
 Montchrétien, 392, 474  
*Montes Pietatis*, 447, seq.  
 Montfort, Simon de, 194  
*Mora*, 453  
 Morality of the Middle Ages, 10, 73  
 More, Sir Thomas, 282; qu. 273, 352, 355  
 Morris, Mr. William, 289  
 Mosse, Miles, 469; qu. 480

- Municipality, mediæval, 10; its authority, 26  
*Mutuum*, defined, 419, 454  
 Myre, John, 386; qu. 461, 473  
  
*National economy*, 9, 42, 43  
 National industry and trade, 159  
 Naturalization, letters of, 18  
 Navarrus, 403, 446, 453, 458  
 Neath, 39  
 Netherlands, 29, 209, 218, 237, 354  
 Neumann, Max, 403, 406, 408, 427; criticised, 377; qu. 428  
 New Romney, 62  
 Newbury, Jack of, 229, 255  
 Newcastle, 22, 91, 155, 163, 217  
 Newgate, 320  
 Nicholas V., 452, 453  
 Nitzsch, 141  
 Nominalists, 340  
 Norfolk, 36, 46, 95, 287; worsted manufacture, 207; rebels in, 293  
 Northampton, 64  
 Northamptonshire, 287  
 Northumberland, 234, 235, 255  
 Norwich, 11, 46, 50, 62, 96, 156, 181, 184, 203, 205, 206, 207, 217  
 Nottingham, 20, 29, 41, 45, 47, 48, 60, 351, 479  
 Nottinghamshire, 287  
 Nürnberg, 33, 346  
  
 Oath of office, of mayor, 30, 42; of bailiff, 60  
*Obits*, 144, 149  
*Occupation*, 28  
 Ochenkowski, Professor, 103, 170, 235; qu. 55  
*Officia*, 140  
*Okere*, 473  
*Open-field system*, 261, 272  
 Orphans, guardianship of, 42  
 Osney Abbey, 230  
 Ovens, of London, 36; of other towns, 40  
 Overseers of poor, 360  
 Oxford, 41, 65, 105, 108, 213, 230, 361; parliament, 194  
 Oxfordshire, 287  
  
 Pageants, 78  
 Painters, 81  
 Papa, Guido, 472  
*Pareur*, 210  
 Paris, 28, 132, 134, 211, 360; university of, 449  
 Parish clerks, 75  
 Parish priests, relief of poor by, 308  
 Parishes and poor, 359  
 Parliament, 8, 9, 45  
 Parochial system, 308, 309  
 Partnership, law of, 383; canonist theory of, 411, seq.; history of, 412; *en commandite*, 412, 446  
 Pasturage, substitution of, for tillage, 261, seq., 353  
*Pasture-masters*, 41  
 Pastures of towns, 32, 40  
 Paul de Castro, 402, 403  
 Peasant Revolt of 1381, 111, 264, seq.  
*Pellipers*, 79  
 Philip and Mary, 132  
 Philip of Valois, 195  
 Physiocrats, 429  
*Piece-wage*, 100  
*Piers Plowman*, qu. 27, 32, 266, 310, 337, 460, 461  
 Pisa, 420  
 Plays, 78  
 Pledges, 425  
 Plot, qu. 368  
 Plymouth, 11, 62  
*Pœna conventionalis*, 399, 424, 464  
 Poleye, Robert de, 207, seq.  
 Poor, relief of, 306, seq.; poor law, 356, seq.  
 Poperinghe, 244, 249  
 Population, 11, 102  
*Portator*, 413  
 Porters, 75  
 Postlethwayt, Malachy, 430  
 Pouchmakers, 163  
*Pragmatic*, the, 349  
 Preston, 165  
 Price, *reasonable*, 31; *just*, 391; the mayor's, 31; ordinances of companies concerning, 160; of wheat, 355

- Priests, maintenance of, 150, 152, 154  
*Prizers*, 39  
*Proctors*, 323  
*Production*, factors of, 393  
*Productive powers*, 195  
*Profits*, canonist view of, 394  
 Protective policy, 226  
 Protestant theologians and poor relief, 341, 342; and usury, 456, seq.  
 Prussia, 407  
 Purcers, 163  
  
*Quarterage*, 114  
  
*Rating of wages*, 177  
 Ratisbon, 346  
 Ratzinger, Georg, 305; qu. 313; 319  
*Ray*, cloth of, 223, 224  
 Reaction, the Catholic, 446  
 Rebuilding of houses, 52  
 Reciprocity, intermunicipal treaties of, 44  
*Rectitudines singularum personarum*, 295  
 Reformation, the, 69, 145, 306, 322  
 Reformers, the, and usury, 456, 465  
 Refugees, 238  
*Regrators*, 20, 31  
 Religious fraternities, 112, 136, seq.  
 Renaissance, the, 49  
*Rent-charges*, theory of, 405, seq., 452, seq., 457  
 Retail sale, 13; in London, 16  
 Revolt, the Peasant, 111, 264, seq.  
 Revolution, the agrarian, 261, seq., 273  
 Rhine, industry of the, 193, 209, 253  
 Ricardo, qu. 432  
 Richard II., 126, 130  
 Ridley, Bishop, 344, 362  
 Riley, H. T., 3  
 Risk, 419, 421, 425, 463  
 Rodbertus, 433; qu. 475  
 Rogers, Thorold, qu. 88, 185, 186, 189; criticised, 264; qu. 289  
 Roman law, 276, 281, 454  
*Rota of Genoa*, 453  
 Rotation of crops, 262  
*Rotuli Parliamentorum*, 4  
*Roundsmen*, 366  
*Russets*, 238  
 Russia, 436  
 Ryc, a Cinque port, 40  
 Ryc, public provision of, 34, 37; from Ireland, 39; price of, 355  
  
 Saddlers, 110  
 S. Alban's, 266  
 S. Antonine, 449  
 S. Augustine, 308, 389  
 S. Bartholomew, fair of, 214; hospital of, 362, 363, 324  
 S. Basil, 315  
 S. Bernardine, 400  
 S. Paul's, 320  
 S. Thomas Aquinas, 392, 399; qu. 391  
 Salisbury, 11, 45  
*Salsarii*, 79  
 Salter's company, 133  
 Sandwich, 83, 238, 240  
 Satins, 238  
 Sauce-makers, 75, 79  
 Saxony, 455  
 Say, J. B., 381  
 Says, 239, 241  
 Scaccia, 403, 453; qu. 475  
 Scales, public, 20  
 Schanz, G., 57, 68, 102, 106, 112, 216, qu. 179  
 Schmoller, Gustav, Prof., 5, 68, 190, 255, 378; qu. 8, 56, 58, 64, 176  
 Schröder, Professor, qu. 55  
 Scothowe, 206  
 Scotland, 29, 39, 60, 105, 162, 443, 444; legislation on crafts, 72; apprenticeship in, 88. See also Edinburgh and Aberdeen.  
*Seal of cause*, 140  
 Scales of statute merchant and staple, 21  
 Search of victuals, 30; of other wares, 72  
 Search, rights of, 28

- Searchers*, 28, 67  
 Seeböhm, Mr. Frederick, 262  
*Select-bodies*, 48  
 Self-interest, 49, 387  
 Servants, 101  
 Services, withdrawal of, 266  
 Serving-men, 101, 355  
 Shearers, 210, 251; of Edinburgh, 163  
 Sheathers, 75  
 Sheep-breeding, 261, seq.  
 Sheremen, 94, 103; company of, 212  
 Ship, town, 40  
 Shoemakers, 94, 128; of Oxford, 108, 121, seq.  
 Shrewsbury, 80, 91, 157, 163  
 Sidgwick, Professor, qu. 471  
 Silk manufacture, 71  
*Sixteen men*, the, 113  
 Sixtus V., 446  
 Skill, importation of, 195  
 Skinners' company, 92, 133  
     — of York, 79  
 Slaters of Newcastle, 91  
 Smith, Adam, 43, 70, 380, 415, 432;  
     qu. 375, 392, 431, 433  
     —, John, 190  
     —, Toulmin, 183, 184  
 Smithfield, 214  
 Spain, 218  
*Spitals*, 323  
 Socialists, modern, 393  
*Societas maris*, 417  
*Societas*, theory of, 411, seq.  
 Societies, journeymen's, 119  
 Society, the Irish, 133  
*Socius stans*, 413  
 Sohm, Professor, qu. 55  
 Somerset, 46, 138, 235, 251, 288  
     —, Protector, 155, 282, 283  
 Sorbonne, the, 341, 348, 444  
*Sors*, 482  
 Southampton, 22, 45, 77, 83, 240,  
     351, 360, 361  
 Southwark, 214, 240  
 Staffordshire, 288  
 Stages in economic evolution, 8, 10,  
     29, 43, 107, 262  
 Stahlschmidt, Mr., 67, 171  
*Staments*, 239  
 Staple, 21; mayor of, 22; statute  
     of, 22; town, 217  
 Star chamber, 37  
 Starkey, 356, qu. 54  
 State, provision for poor by the,  
     340, seq.  
 Stationers, 132  
*Statute of Apprentices*, 86, 134, 161  
     — of Kilkenny, 385  
     — of Merchants, or Acton Bur-  
         nell, 21  
     — of Merton, 271  
     — of the Staple, 22  
     — of Victuallers, 48  
*Statutes of Labourers*, 265, 330,  
     seq., 383  
     — of the Realm, 4, 67  
     — Merchant, 21  
     — Staple, 21  
*Steelyard*, 36  
 Stevenson, W. H., 3  
*Stint* of cattle, 40  
 Stintzing, Professor, 378, qu. 471  
*Stock*, 431  
 Stock of parish, 310  
*Store*, the city's, 36  
     — of parish, 310  
 Stow, qu. 34, 129, 329  
*Strangers*, 13  
 Strassburg, 33, 346  
 Stratford, 34  
*Streits*, 224  
 Strikes, 103, 111  
 Stringers, 75  
 Stroud, water of, 235  
 Strype, qu. 81  
 Stuart, Sir James, 430  
 Stubbs, Dr., qu. 129, 130, 172, 172  
 Stump, 230, 236  
 Subsidy Acts, 157  
     — Roll of 1377, 4  
 Suffolk, 36, 46, 231, 235, 286  
 Summenhart, 452  
 Sumptuary legislation, 51  
 Supervision of wares, 72  
*Supplication for the Beggars*, 321  
 Surrey, 235, 288  
*Survey* of victuals, 30



- Sussex, 36, 223, 288  
 Systems of industry described, 218  
  
 Tailors, 94; of Southampton, 77;  
     of Exeter, 91, 106; of Bristol, 123,  
     128, 140, 151, seq.; of Lincoln,  
     140  
     —, merchant, company of, 28,  
     74, 80, 94, 132, 133, 140, 144, 150,  
     153; their *yard*, 83; yeomen, 108,  
     seq.  
 Tallow, 20; from Ireland, 39  
 Tanners, 128  
*Tapstrey*, 239  
*Termors*, 285  
*Thirteen*, the, 132  
 Thomas de Vio, 450  
 Tithe, 307, seq.  
*Titulus damni emergentis*, 403  
     — *morae*, 403  
     — *legis civilis*, 486  
 Tolls, exemption from, 44  
*Tonsor*, 210  
 Towns, isolation of, 6; their policy, 7;  
     town-economy, 9; period of their  
     power, 10; population, 11; mono-  
     poly of trade, 12, seq.; victory over  
     aliens, 15; control of industry, 23,  
     seq.; constitution, 23; solidarity,  
     32; undertakings, 32, seq.; pro-  
     perty, 32; decay of town system,  
     42, seq.; treaties between, 44;  
     alleged distress, 50, seq.; rent-  
     charges in, 405  
 Towns = townships, 280, 333  
*Tractor*, 413  
 Trade, intermunicipal, 5; town mo-  
     nopoly of, 12, seq., 44  
 Trades Unions, 91, 117  
 Train-oil, 39  
 Travel of journeymen, 124  
 Trollope, Anthony, 321  
*Tron*, 21  
*Tronage*, 21  
*Truck*, 229  
 Tübingen, university of, 441  
 Tucking-mill, 233  
 Tudor policy, 282  
 Turgot, qu. 430, 431  
  
 Turkey, 332  
 Tusser, qu. 300  
  
 Uhlhorn, Gerhard, 305, qu. 369  
 Unemployed, the, 336, 365  
 Universities, the, 383, 472  
 Usury, history of the theory of, 395,  
     seq.  
  
 Vagrancy, legislation concerning,  
     336, seq.; growth of, 351, 358  
*Valets*, 101, 103  
 Valet tailors, 109  
*Value*, 394  
*Values in exchange*, 195  
 Venice, 414, 447  
 Victual, assize of, 49  
 Victuallers, statute of, 48, 53;  
 Victualling crafts, 30, 31, 65  
 Victuals, survey of, 30, 31; cessa-  
     tion of survey, 47, seq.  
 Vienna, council of, 382  
 Villeins, 264, 266, 272, 274  
*Villénage*, defined, 277  
 Vinogradoff, Professor, 296  
 Vintners' company, 133  
 Vives, 305, 343, seq.  
  
 Wages, *fair*, 380; *reasonable*, 93, 335  
     —, attempts to raise, 111, 116;  
     increase of, 265; *rating* of, 177  
     —, journeymen's, 106  
 Wagner, Professor Adolf, qu. 475  
 Wales, 235, 288  
 Walford, Cornelius, 67  
 Walkers, of Edinburgh, 163  
 Wallingford, 162  
 Walloons, 238, seq.  
 Walsham, 206  
*Wardens* of the crafts, 77, 104;  
     *wardens substitute*, 113; of parish  
     stocks, 310  
 Wares, search of, 72  
 Warwickshire, 287  
 Waterford, 39  
 Waterleders, 75  
 Weavers, 94, 192; guilds of, 103; of  
     London, 75, 198, seq.; of Hull,  
     121, 156; of Coventry, 123; of

- Bristol, 132; of Edinburgh, 163;  
 of Brabant, 196  
 Weavers' Act, 233, 236  
*Weavers alien*, 103, 199, seq.  
 Weber, Max, 378, qu. 477  
*Week-boy*, 97  
*Weigh-house*, 21  
 West country, 227  
 Westminster, 22, 214  
 Westmoreland, 234, 235, 288  
 Wey, fair of, 461  
 Wheat, prices of, 355; from Ireland,  
 39  
 White-tawyers, 163  
 Whittington, Richard, 326  
 Wholesale trade, 16  
 Widows, guardianship of, 42  
 Wight, Isle of, 268, 287  
 Wilda, 177  
 William V. of Bavaria, 455  
 Wills, mediæval, 320, 329; probate  
 of, 42  
 Wilson, Thomas, 467, 468  
 Wiltshire, 231, 232, 235, 251, 287  
 Wimbledon, 292  
 Winchester, 45; fair of, 461  
 Winchcombe, John, 229, 236, 255  
 Wine trade, 40  
 Wiskemann, H., 378  
 Woad, 193  
 Wolsey, Cardinal, 231, 282, 354, 444  
 Wool, 191; dealers in, 210  
 Woollen cloth, importation of, pro-  
 hibited, 83; exportation of, 225  
 Woollen manufacture, 192, seq.  
 Worcester, 144, 232  
 Worcestershire, 36, 287  
 Working-class, appearance of a, 102  
 Workmanship, standard of, 77, 92  
*Worsted-celde*, 207, 208  
 Worstede, 206  
 Worsted manufacture, 46, 96, 156,  
 205, seq.  
 Wyclif, 266, qu. 388, 390  
*Yeomanry* of crafts, 101; among  
 tailors, 108, 113, seq.; among iron-  
 mongers, 113, 120; among black-  
 smiths, 117, seq.; among fish-  
 mongers, 120; among armourers,  
 120; among clothworkers, 120;  
 among founders, 120; among  
 tailors of Bristol, 123  
 York, 11, 16, 17, 28, 29, 33, 47, 59,  
 60, 75, 79, 89, 93, 155, 196, 213,  
 217, 255, 318, 326, 327, 361  
 Yorkist government, 15, 83, 279  
 Yorkshire, 46, 227, 234, 235, 253,  
 255, 287  
 Young, Arthur, 260, 288, 300, seq.  
 Ypres, 195, 197, 239, 305, 341; re-  
 form of poor relief in, 347, seq.  
 Zealand, 196  
*Zins*, 397, 457  
*Zunft* system, 141  
 Zürich, 343  
 Zwingli, 343

THE END.







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